

From: "[REDACTED]. (USAFLS)" <[REDACTED]>

To: "[REDACTED] (USAFLS)" <[REDACTED]>

Subject: RE: CVRA case

Date: Tue, 12 Oct 2010 20:49:04 +0000

Importance: Normal

I agree with your statement. I thought that you had framed our initial response to their complaint in terms of "mootness," but your response has reminded me that you didn't say it was moot, just that the Court had no authority to set aside the non-prosecution agreement.

I will watch CM/ECF while you are at the NAC.

[REDACTED]
Assistant U.S. Attorney
[REDACTED]
[REDACTED]
[REDACTED]
Fax [REDACTED]

From: [REDACTED] (USAFLS)

Sent: Tuesday, October 12, 2010 4:46 PM

To: [REDACTED]. (USAFLS)

Subject: RE: CVRA case

[REDACTED],
A moot case is one where there is no longer any dispute for which the court can grant relief. If their previous conduct is any indication, plaintiffs will probably assert that the CVRA obligated the government to consult with them prior to entering into the non-prosecution agreement. They seem to be resigned to the fact that the court cannot or will not set aside the non-prosecution agreement, since the relief plaintiffs seek is a declaratory judgment. I don't believe we can argue there is no longer any dispute between the parties.

I agree that plaintiffs' leisurely pace in conducting the litigation has undermined the vitality of their case, but the issue is whether there is still a live controversy between plaintiffs and the government. Plaintiffs will no doubt dispute the government's contention that the court has no authority to grant relief. Moreover, a declaratory judgment is a form of relief. I will take a closer look at the caselaw to determine if we can advance a good faith mootness argument.

I will be at the NAC next week. I intend to tell Judge Cassell that the government has no objection to stipulating to facts which we agree are correct, but we don't agree plaintiffs are entitled to any relief since we did not violate the CVRA. Please let me know what you think

[REDACTED]

From: [REDACTED]. (USAFLS)

Sent: Tuesday, October 12, 2010 4:23 PM

To: [REDACTED] (USAFLS)

Subject: RE: CVRA case

But isn't the judge asking why they haven't prosecuted the case in 2 years?

The passage of time makes their case even more moot than it was before, don't you think?

[REDACTED]
Assistant U.S. Attorney
[REDACTED]
[REDACTED]
[REDACTED]
Fax [REDACTED]

From: [REDACTED] (USAFLS)
Sent: Tuesday, October 12, 2010 3:58 PM
To: [REDACTED]. (USAFLS)
Subject: FW: CVRA case

[REDACTED]
This is plaintiffs' response to the order to show cause.

From: Paul Cassell [mailto:[REDACTED]]
Sent: Tuesday, October 12, 2010 3:47 PM
To: [REDACTED] (USAFLS)
Cc: Brad Edwards
Subject: CVRA case

Hi [REDACTED] (if I may),

I believe we have communicated electronically before. As you probably know, I am co-counsel with Brad Edwards on the CVRA case concerning the Epstein (non) prosecution.

You will have seen Judge Marra's order today asking for us to explain the current situation on the CVRA case by October 23. By October 23, we plan to file a motion asking the court to declare that there were violations of the CVRA. We will be doing that on the basis of a set of fact in the case, of course.

I am writing to see if you would be interested in working with us on a stipulated set of facts? We will be in a position to give you a set of facts early to middle of next week. Would you be able to look at them quickly and let us know which facts are not dispute?

Thanks in advance for your cooperation on narrowing the factual issues in this case and any idea for helping the case to progress smoothly.

Sincerely,

Paul Cassell
Counsel for Jane Does

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law
S.J. Quinney College of Law at the University of Utah

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<http://www.law.utah.edu/profiles/default.asp?PersonID=57&name=Cassell,Paul>

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