

From: " [REDACTED], [REDACTED] (USAFLS)" <[REDACTED]>
To: " [REDACTED], [REDACTED], [REDACTED] (USAFLS)" <[REDACTED]>
Cc: [REDACTED] <[REDACTED]>
Subject: FW: Letter and Draft Statement of Facts
Date: Sat, 23 Oct 2010 20:40:01 +0000
Importance: Normal
Attachments: letter-[REDACTED]-october23.docx; [REDACTED]-sof.docx

[REDACTED]

This is a letter from Paul Cassell and the draft statement of facts. Since this appears to be getting ugly, I think we need to alert the Executive Division. I am on travel to Kansas City on Monday to give a presentation on Tuesday. I will be back on Wednesday. I can be reached at [REDACTED]. Thanks.

[REDACTED]

From: Paul Cassell [mailto:[REDACTED]]
Sent: Saturday, October 23, 2010 3:25 PM
To: [REDACTED], [REDACTED] (USAFLS)
Cc: [REDACTED]
Subject: Letter and Draft Statement of Facts

Dear [REDACTED]

Attached please find (1) a letter to you and (2) a draft statement of facts. Thanks! Paul

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law
S.J. Quinney College of Law at the University of Utah
332 S. 1400 E. , Room 101
Salt Lake City, UT 84112-0730
[REDACTED] (phone)
[REDACTED] (fax)
[REDACTED]

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From: [REDACTED], [REDACTED] (USAFLS) [REDACTED]
Sent: Friday, October 22, 2010 1:47 PM
To: Paul Cassell
Subject: RE: proposed schedule to resolve the case

Judge Cassell,

The government will review your statement of facts and we will agree to a factual assertion if we believe it is correct. Insofar as your proposal to resolve the case, if there are disputed facts, the government does not agree to an evidentiary hearing on the facts disputed by the government. This case was filed on July 7, 2008, as an emergency. The government filed its response two days' later, on July 9, and an emergency hearing was held on July 11, 2008. Since that time, plaintiffs have not proceeded apace to pursue their claims. No complaint has been filed, which is the normal mechanism for commencing a civil action. Consequently, the government has not filed an answer.

I believe the major point of contention between the parties is whether the U.S. Attorney's Office was obligated under 18 [REDACTED]. 3371(a)(5) to consult with plaintiffs before entering into the non-prosecution agreement. Since there was no pending "case" in the district court, we believe the U.S. Attorney's had no obligation to consult with plaintiffs. The government will be filing a motion to dismiss under Rule 12(b)(6) on the claim under 18 [REDACTED]. 3771(a)(5). We will also be seeking dismissal on the grounds of failure to prosecute.

If plaintiffs believe the agreed upon facts constitute a basis for seeking summary judgment, and files a motion seeking summary judgment, the government will respond to the plaintiffs' motion. However, we will not agree to an evidentiary hearing on the disputed facts.

As to the status of any pending investigation of Epstein, the DOJ's policy is not to comment on whether an investigation exists, or the progress of an investigation.

I can be reached at [REDACTED] if you wish to discuss this further. Thanks.

[REDACTED]

From: Paul Cassell [mailto:[REDACTED]]
Sent: Thursday, October 21, 2010 5:39 PM
To: [REDACTED], [REDACTED] (USAFLS)
Cc: Brad Edwards
Subject: proposed schedule to resolve the case

Hi [REDACTED]

The Court wants a status report from us regarding resolving the case.

We are planning to file a motion for summary judgment/finding of violations of victims rights on Wednesday, October 27. This will include a statement of proposed facts and legal arguments. The motion also requests an evidentiary hearing in the event the U.S. Attorney's Office contests are proposed facts. We would then ask for a hearing on the appropriate remedy, if the court find a violation of rights.

We would propose the following schedule, and wonder if you would concur:

November 10 – U.S. Attorney's Office Response to the Motion.
November 17 – Victims' Reply to Response.
Evidentiary Hearing (if facts contested) – early December
January 1, 2011 – Court issues ruling on whether victims' rights were violated. If it enters a finding that the victims' rights were violated, we would propose that we file a brief on the appropriate remedy on January 14, you file a response on January 28, and we file a reply on February 4 – with the Court to hold a hearing and/or enter a ruling on remedy issue by the end of February.

Let me know if this schedule seems agreeable to you. Paul Cassell Counsel for Jane Doe #1 and Jane Doe #2

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