

From: "Lee, Dexter (USAFLS)" <[REDACTED]>

To: Paul Cassell <[REDACTED]>

Subject: RE: proposed schedule to resolve the case

Date: Fri, 22 Oct 2010 19:47:08 +0000

Importance: Normal

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.

Dexter

From: Paul Cassell [mailto:[REDACTED]]

Sent: Thursday, October 21, 2010 5:39 PM

To: Lee, Dexter (USAFLS)

Cc: Brad Edwards

Subject: proposed schedule to resolve the case

Hi Dexter,

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.

EFTA00206714

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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