

From: Paul Cassell <[REDACTED]>

To: [REDACTED] (USAFLS)"

Brad Edwards <[REDACTED]>

Cc: [REDACTED]

Subject: RE: Where Do We Stand on the Proposed Statement of Facts?

Date: Mon, 08 Nov 2010 21:24:26 +0000

Importance: Normal

Hi [REDACTED],

Brad and I both agree that we need to get the facts resolved first, then discuss where we go from there. At the same time, we want to get this moving along. Can we set a specific time line for getting the facts resolved – is there a time that works for you and [REDACTED] in the near future to have a conference call? Then is there a specific time shortly after Thanksgiving that would work you're your U.S. Attorney? Paul

Paul G. Cassell

Ronald N. Boyce Presidential Professor of Criminal Law

[REDACTED]
Salt Lake City, UT 84112-0730
[REDACTED]

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

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From: [REDACTED]

Sent: Monday, November 08, 2010 6:17 AM

To: Paul Cassell; Brad Edwards

Cc: [REDACTED] (USAFLS)

Subject: RE: Where Do We Stand on the Proposed Statement of Facts?

Paul and Brad,

I had envisioned this meeting to be an opportunity for the parties to meet face-to-face, discuss each side's objectives in the litigation, and determine whether each side could reach an accommodation. Any or all of your clients are welcome to attend the meeting. I do not believe it necessary for the parties to have an agreed set of facts in order to have a productive meeting. Nonetheless, if you believe that a necessary precondition to a meeting is an agreed statement of facts, we will do our best to accommodate you.

Completing the task before November 16 will be ambitious. I will return from South Carolina on the evening of November 10. [REDACTED] will return from annual leave on Saturday, November 13. I will need [REDACTED] assistance in order to determine if the government can agree to the facts you assert. Perhaps it would be best for me to take the November 16 proposed meeting date off the calendar. We can reschedule when and if we reach agreement on the facts. Will that work? Thanks.

[REDACTED]

EFTA00212682

From: Paul Cassell [REDACTED]
Sent: Sunday, November 07, 2010 8:36 AM
To: [REDACTED] Brad Edwards
Cc: [REDACTED] (USAFLS)
Subject: RE: Where Do We Stand on the Proposed Statement of Facts?

Hi [REDACTED],

Thanks for getting back to us on the possible meeting.

Before discussing the exact time of meeting, Brad and I are wondering where things stand on getting an agreed statement of facts. As you know, we were working on that two years ago, and then y'all took the position it wasn't needed. A couple of weeks ago, we were trying to get a set of facts before we filed, but you weren't able to get back to us. About 10 days, I send you a set of specific comments on the stipulations, and we haven't heard back. This latest message doesn't mention where we stand on resolving the facts.

For me, to fly all the way across the country doesn't make sense to quibble over facts that can be sorted through ahead of time. So I'd like to get the facts nailed down, and then we could see about discussing with the U.S. Attorney what the facts means and how to move forward from there.

Does that work at your end -- we could make time to discuss the facts with you this week and then meet as you propose. As outlined in my previous e-mail, I believe the range of disputes has to be fairly narrow in view of the sources we now have.

Brad and I have some time (all times Eastern Time):

Wednesday: noon to 5 PM.

Thursday: 12:30 pm. to 5 PM

Friday: all day, except between noon and 1 PM.

Also, we are discussing with our clients the possibility that one or more of them might attend the meeting in person. We assume that is not a problem at your end.

Hoping to be able to work things out on the facts and move forward on resolving the case from there. Paul

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law
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From: [REDACTED]
Sent: Saturday, November 06, 2010 11:04 AM
To: Paul Cassell; Brad Edwards
Cc: [REDACTED] (USAFLS)
Subject: RE: Proposed Meeting Dates and Proposed Statement of Facts

Paul and Brad,

Can we meet at 10:00 a.m. on November 16? The address is 99 N.E. 4th Street, 8th Floor, Miami, Florida. Thanks.

[REDACTED]

EFTA00212683

From: Paul Cassell [mailto: [REDACTED]]
Sent: Thursday, October 28, 2010 4:52 PM
To: [REDACTED] (USAFLS); Brad Edwards
Cc: [REDACTED] (USAFLS)
Subject: RE: Proposed Meeting Dates and Proposed Statement of Facts

Hey [REDACTED]

1. Thanks for getting back to us – based on the judge’s order today, it looks like he wants us to try and resolve it and otherwise move quickly.
2. Looking at my schedule, I can fly to Florida for a meeting on the morning of the 16th. Would we meet in Miami?
3. We would very much like to talk substance with the U.S. Attorney – not haggle over factual details. Therefore, we would like to sort through all of the facts in this case as quickly as possible. I understand that both you and [REDACTED] are leaving shortly. Do you have time today or tomorrow to finish up our discussion on the facts. I think we should go through each of the facts we propose and determine if you can stipulate and, if not, how (if at all) the stipulation can be reworded so avoid any concerns you might have.
4. To move the process along, I think you should send us a note about which facts you can stipulate to. It seems to me that you should be able to immediately stipulate to facts 1, 2, 3, 4, 5, and 6 surrounding the facts of the case. 7,8, and 9 are all sourced by e-mails. 10 involves a question of [REDACTED] intent – perhaps we could list what our position is on what the intent was and then have you explain what your position is on what the intent was. 11 and 12 are sourced by e-mails. 13 is partially sourced by e-mails. We then have our position on what the “marching orders” were. You could list your position on what the “marching orders” were – attaching any relevant documents and/or correspondence that would prove your position or that you rely upon in formulating your position. 15 is sourced by an e-mail. 16 were are willing to remove, at this time, if it would further our efforts to reach a resolution. 17 and 18 are sourced by e-mails. On 19, we could list our reasonable inference and you could give, instead, your position as to why the U.S. Attorney’s Office entered into the confidentiality provision, again attaching any relevant documents or correspondence or e-mails that are relevant to this issue. 20 is sourced by an e-mail. 21 is sourced by an FBI 302, although you have refused to provide it to us. Could you confirm that this is accurate and then attach the 302 as the source? Obviously our client is at a significant disadvantage because she did not take notes during the meeting. We believe that your “best efforts” obligation requires you to make this information available to her. If you continue to persist in the view that CVRA rights do not attach to our clients in this case, we may be forced to file a motion on this issue – of prevail on the U.S. Attorney to extend us CVRA rights in this case. As you know, we still have outstanding to you a request for you to explain how we should tee up this case procedurally to reach a fair resolution for all concerned. 22 is based on our client’s view. If you disagree with our client’s view, perhaps we could list you view of what our client’s views are and the basis for your op-inion. 22-31 are all sourced by e-mails or CVRA notices or other indisputable sources. 32 could be handled similarly to 22. 33-35 seem indisputable. 36 and 37 are based on the Edwards affidavit. [REDACTED] could give a contrary affidavit if she disagrees. 38 is sourced by an e-mail. 39 is backed up by a letter. 40 is based on a victim notification. 41-43 are court proceedings. 44-49 rests on pleadings and court hearings. 50 - 54 are based on the Edwards affidavits and court docket records. 55 seems indisputable. Please let us know quickly how you propose to resolve all this. I am available all day today and all day tomorrow to work with you on this and I think Brad has some time as well.
5. As you know, we have been trying to get a government stipulation on facts since about August 2008 – and you have now had our proposed facts for nearly a week. So can we move forward on this soon?

Thanks for getting back to us – we continue to look forward to working with you. Please tell the U.S Attorney how much we appreciate him making time for us to meet with him. I know that Jane Doe #1 and Jane Doe #2 really appreciate it and are excited to hear that their CVRA case is now moving forward towards a resolution.

Paul Cassell
Co-Counsel for Jane Doe

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law

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

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From: [REDACTED]
Sent: Thursday, October 28, 2010 1:51 PM
To: Paul Cassell; Brad Edwards
Cc: [REDACTED]
Subject: Proposed Meeting Dates

Paul and Brad,

Are both of you available to meet on November 16, 18, or 19? We cannot meet sooner because I will be on government travel to the National Advocacy Center in Columbia, SC, from November 2-10, 2010, and [REDACTED] will be on annual leave from November 1 through November 12, 2010.

Thanks.
[REDACTED]