

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. 08-80736-CIV-MARRA

JANE DOE #1 and JANE DOE #2,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

ORDER

THIS CAUSE is before the Court upon various motions. These matters are fully briefed and are now ripe for review. The Court has carefully considered the briefs and is fully advised in the premises.

On June 18, 2013, this Court denied the government's Motion to Dismiss, and granted Petitioners' motion to use correspondence between the United States Attorney's Office and counsel for Intervenor Jeffrey Epstein ("Epstein") to prove the Crime Victims' Rights Act ("CVRA") violations alleged in this proceeding. (DE 188 and 189). The Court further ordered the government to file all outstanding requests for admissions in the open court file, and to produce responsive documents. (DE 190). However, to the extent any claim of privilege is asserted, the government was directed to file contemporaneously in the open court file and serve a privilege log as required by the Federal Rules of Civil Procedure, and to submit all responsive documents withheld on a claim of privilege to the Court for *in camera* inspection. Id. The Court

then set up an abbreviated briefing schedule for the parties to litigate the privilege issues.¹ *Id.*

In order to comply with the Orders, on July 19 and 26, 2013, the government filed its responses to the requests for admissions, it filed its privilege log asserting objections based on non-party victims' privacy rights and the Federal Rule of Criminal Procedure 6(e) concerning grand jury materials, as well as work product, investigative, attorney-client, and deliberative process privileges. (DE 212, 213). The government also submitted the documents to the Court for *in camera* review. Petitioners acknowledge that the government turned over 1,357 pages of documents to them, and submitted 14,825 pages to the Court for *in camera* inspection. (DE 226, p. 4). The government then asked for leave of Court to file relevance objections to Petitioners' First Request for Production. (DE 219).

Petitioners made several filings in response to the government's production: Motion to Compel Production of Documents that are not Privileged (DE 225); Notice of Filing Objections to Privilege Log (DE 224); Renewed Motion for an Order Directing the U.S. Attorney's Office not to Withhold Relevant Evidence (DE 226); and Protective Petition for Disclosure of Grand Jury Materials Relevant to Their Petition for Enforcement of their CVRA Rights (DE 227). Additionally, Petitioners filed their Motion for Ordinary Briefing Schedule and Ordinary Page Limits to Respond to the Government's Privilege Assertions. (DE 218). Thereafter, this Court granted Epstein's motion to intervene for the limited purpose of protecting his interests in the secrecy of matters occurring before the federal grand jury of which he was a target because Epstein has a legitimate interest in asserting a claim that the grand jury material contained within

¹Thereafter, the parties appealed these Orders. (DE 194, 195, 196). On April 18, 2014, the Eleventh Circuit affirmed the disclosure order, and the mandate was issued on June 11, 2014. (DE 254).

the government's production may be protected from disclosure by the Federal Rule of Criminal Procedure 6(e).

Having carefully reviewed the briefing, the Court rules as follows:

1. The government had already been ordered to produce materials that are not privileged (DE 190), and some documents were produced. Therefore, Petitioners' Motion to Compel Production of Documents that are not Privileged (DE 225) is **DENIED AS MOOT**. However, to the extent Petitioners raise objections to the government's assertions of privileges, Petitioners may re-assert these objections.
2. The Protective Petition for Disclosure of Grand Jury Materials Relevant to Their Petition for Enforcement of their CVRA Rights (DE 227) is **GRANTED** to the extent Petitioners ask the Court to consider this filing to be a formal request for the release of grand jury materials. The Court reserves its ruling as to whether the materials in question are protected from disclosure by the Federal Rule of Criminal Procedure 6(e).
3. As this Court has previously indicated, see DE 190, the Federal Rules of Civil Procedure govern the general course of this proceeding.
4. Petitioners' Motion for Ordinary Briefing Schedule and Ordinary Page Limits to Respond to the Government's Privilege Assertions (DE 218) is **GRANTED**. Within 21 days from the date of this Order, Petitioners may file their motion re-asserting the objections to the government's assertions of privilege. The page limit and briefing schedule set out by the Local Rules shall apply.
5. Petitioners state in their Renewed Motion for an Order Directing the U.S. Attorney's Office not to Withhold Relevant Evidence (DE 226) that the point of this Renewed Motion is not to

debate the government on its privilege assertions. However, this is precisely what Petitioners are doing. Therefore, the Renewed Motion for an Order Directing the U.S. Attorney's Office not to Withhold Relevant Evidence (DE 226) is **DENIED without prejudice** to re-assert the arguments according to the procedure set out above.

6. The government's Motion for Leave of Court to File Relevance Objections to Petitioners' First Request for Production (DE 219) is **GRANTED**. The Government may file its motion within 14-days from the date of this Order. The page limit and briefing schedule set out by the Local Rules shall apply.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, this 21st day of September, 2014.



KENNETH A. MARRA
United States District Court