

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF ARIZONA

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4 Manuel de Jesus Ortega Melendres,)
et al.,)
5)
Plaintiffs,) No. CV 07-2513-PHX-GMS
6)
vs.) Phoenix, Arizona
7) July 31, 2015
Joseph M. Arpaio, et al.,) 3:30 p.m.
8)
Defendants.)
9 _____)

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14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 BEFORE THE HONORABLE G. MURRAY SNOW

16 Status Conference Volume 2, Pages 71-81

17 **(SEALED PROCEEDINGS)**

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22 Court Reporter: Gary Moll
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25 Proceedings taken by stenographic court reporter
Transcript prepared by computer-aided transcription

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A P P E A R A N C E S

Also present:

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Chief Raul Martinez, Deputy Monitor - Telephonically
Executive Chief Brian Sands
Chief Deputy Gerard Sheridan
Deputy Chief Jack MacIntyre
Lieutenant Joseph Sousa

P R O C E E D I N G S

THE COURT: All right. I'm going to indicate that anybody who's on the telephone who's not a member of the Monitor Team, or who's not representing a party, or a specially appearing non-party to this lawsuit, needs to hang up. I didn't hear that there was anybody on the phone that didn't fit that category, but I'm just restating it for the record.

15:30:10

MR. SEGURA: Your Honor, this is Andre Segura. We have our paralegal, Sophia Yapalater, who's on the line. She is with the ACLU.

15:30:27

THE COURT: That's fine.

Ms. Iafrate.

MS. IAFRATE: Thank you, Your Honor. This is an issue that came up during one of the interviews, and it involves an investigation that the Sheriff's Office started. And it led to potential criminal investigation, and then it led to a staffing at the Attorney General's Office regarding criminal prosecution.

15:30:39

Our concern is that if the target is made aware, the investigation will be compromised. It is not a completed investigation. There's still quite a bit that needs to be done. Obviously, the target is someone within MCSO. Therefore, we are proceeding cautiously.

15:31:01

THE COURT: Well, I don't think, Ms. Iafrate, and I

15:31:17

1 think that all kinds of injunctive orders make it clear, that
2 merely because that's the case doesn't prevent MCSO from being
3 obliged to turn materials over to the monitor that pertain even
4 to criminal investigations. But I am glad to take whatever
5 steps are necessary to protect the confidentiality of that.

15:31:38

6 Let me ask a question or two, and if you're uncomfortable
7 answering, you can tell me, and then I'll work it through with
8 you.

9 Was the target, him or herself, ever interviewed as
10 part of the investigative process?

15:31:51

11 MS. IAFRATE: To date, no.

12 THE COURT: Then how would disclosing the material to
13 the monitor compromise an investigation that apparently has
14 already been completed at the MCSO and turned over to the
15 attorney general?

15:32:11

16 MS. IAFRATE: It has not been completed, Your Honor,
17 by MCSO. They are working in conjunction with the Attorney
18 General's Office. Also, there is some concern that this
19 individual will be interviewed quite soon.

20 THE COURT: Well, if he's interviewed, that's your
21 decision, but I'm going to require you to turn over all
22 materials, and I'm going to require the monitor to keep them
23 absolutely confidential.

15:32:22

24 Did you say this is -- well, what's at issue here?
25 We've got materials, we've got -- or an interview, or what is

15:32:39

1 it?

2 MS. IAFRATE: What's at issue is the release of this
3 information that could potentially compromise the
4 investigation.

5 THE COURT: To the monitor?

15:32:48

6 MS. IAFRATE: To the monitor.

7 THE COURT: We've already got orders that completely
8 cover how the sheriff's confidentiality concerns are going to
9 be met.

10 MS. IAFRATE: I understand that, Your Honor. I find
11 this one to be in a unique situation. I discussed it with the
12 monitors this morning with the understanding that this would be
13 raised with you. I was concerned to have it raised in open
14 court because of the sensitivity of it.

15:32:57

15 All other reports that have been requested, whether
16 they be criminal IAs or civil IAs, we've been working through
17 those. This is a unique situation where criminal prosecution
18 is likely and the investigation is still in a phase where it
19 could be compromised.

15:33:13

20 THE COURT: Well, I'm not going to let my monitors
21 compromise that investigation. And I'm also not going to let
22 the MCSO avoid the obligation to determine the adequacy of the
23 investigation by joining a joint investigation with the
24 attorney general.

15:33:30

25 So I'm going to require you to turn over all material

15:33:44

1 to the monitor pertaining to this investigation, as well as any
2 persons involved in the investigation need to be subjected to
3 the interview of the monitor. But the monitor is required to
4 keep it confidential, to not turn it over absent a request to
5 the Court which can then be raised and discussed with all
6 parties. 15:34:05

7 Is that clear?

8 MS. IAFRATE: Yes, Your Honor. If I could just have a
9 point of clarification.

10 THE COURT: Yes. 15:34:14

11 MS. IAFRATE: MCSO did not join forces with the AG's
12 office before providing this to anyone.

13 THE COURT: You know, I accept that that may be true.
14 But I am simply saying that whether or not the MCSO joins with
15 another investigative agency as a result of any internal
16 investigation, the orders already fully anticipate that any
17 internal investigation -- anything, whether it's criminal or
18 otherwise, and the orders are explicit about it -- needs to be
19 disclosed to the monitor. 15:34:32

20 And so there isn't anything that you've described to
21 me that makes me feel like that's not covered by the orders,
22 and even if it weren't, I still think it needs to be disclosed
23 in its fullness to the monitor. The monitor cannot disclose it
24 to any of the parties unless and until it raises that matter
25 in -- it signifies to the parties that it wishes to raise the 15:35:12

1 matter that is the subject of this hearing under seal at a
2 status conference, and then we can address it.

3 Unless a party objects, I'm going to allow the order
4 I've just delivered to you orally to stand. All materials
5 relating to the investigation, any interviews that the monitor
6 wants to conduct of those involved, are to be provided.

15:35:33

7 However, this matter shall remain under seal until the
8 AG -- well, this matter shall remain under seal until further
9 order of this Court or until the AG initiates some sort of
10 criminal prosecution, or any other party, county attorney or
11 whoever it might be.

15:36:00

12 Anybody object to that? All right.

13 MS. IAFRATE: Thank you.

14 THE COURT: You have your order. Thank you.

15 Obviously, we're not going to be meeting on the 14th.
16 Let me just see, I've got a note slipped to me.

15:36:15

17 Can you do it on the 13th, Ms. Wang?

18 MS. WANG: I'm not able to, Your Honor.

19 THE COURT: How about the 11th?

20 MS. WANG: The 11th I could do.

15:36:34

21 THE COURT: Can I have you folks from the defendants
22 and specially appearing parties do the 11th?

23 MR. COMO: Your Honor, I'm out that entire week, but
24 I'll make my best effort to find someone else from our office
25 who's already appeared in this case to attend.

15:36:48

1 THE COURT: Thank you. I'd appreciate that.

2 Anything else?

3 MS. IAFRATE: Yes, Your Honor. I have a conflict that
4 day. But like the other one where I'm going to be in trial, if
5 you set it, I will -- you said that I could then make you aware
6 regarding whether we have a problem or not.

15:36:59

7 THE COURT: Yeah. The only problem is that's the very
8 next -- why don't we set it for 8-11 at --

9 Did Armie give you a time, Michelle?

10 THE CLERK: She said all day.

15:37:17

11 THE COURT: Okay. Why don't we set it for 8-11 at
12 9:00 o'clock. And Ms. Iaftrate, do exactly what you've
13 indicated you'll do. And then if we have to move it to the
14 10th it's going to be some really weird hour, because I've
15 already got a full calendar of criminal matters, but we can try
16 and do that.

15:37:29

17 Thank you all. We'll see you in a week and a half or
18 so.

19 (Proceedings concluded at 3:37 p.m.)

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C E R T I F I C A T E

I, GARY MOLL, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 6th day of August, 2015.

s/Gary Moll