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Pro Se Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JESSE C. TRENTADUE,

Plaintiff,

vs.

FEDERAL BUREAU OF
INVESTIGATION, *et al.*

Defendants.

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PLAINTIFF'S REPLY
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MEMORANDUM RE: MOTION TO
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STRIKE AUGUST 25, 2014
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HEARING
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Case No.: 2:08cv788 CW
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Judge Clark Waddoups
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Magistrate Judge Dustin B. Pead
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Plaintiff hereby submits this *Reply Memorandum* with respect to his
Motion to Strike the August 25, 2014 hearing.¹

¹ Doc. 191.

STATEMENT OF FACTS

The following facts will show that notwithstanding Defendant's assertions to the contrary, until he was contacted by Agents Quirk and Jarrett, John Matthews was willing to testify in this case, that Matthews had relevant evidence with respect to a possible motive by Defendants not to "find" the videotapes and documents at issue regarding the Oklahoma City Bombing, that Plaintiff has proven a *prima facie* case of witness tampering by Defendants, and that as presently structured, the scope of the August 25, 2014 hearing is both unnecessary and/or otherwise pointless, which is why Plaintiff respectfully submits that the scope of that hearing should be modified and/or expanded:

1. Plaintiff first met John Matthews on July 24, 2011, outside of Plaintiff's office at 8 East Broadway, Salt Lake City, Utah. Mr. Matthews had telephoned Plaintiff a week or so before that date to discuss an FBI operation known as "PATCON," which is an acronym for "Patriot Conspiracy."²

2. Mr. Matthews contacted Plaintiff because he had seen on the internet some of the PATCON records that Plaintiff had obtained from the FBI by way of *FOIA* requests. Mr. Matthews told Plaintiff that he was one of the FBI's

² *Trentadue Declaration*, Doc.201, ¶ 2.

undercover operatives in PATCON, and wanted to speak with Plaintiff in person about PATCON. Thereafter, Mr. Matthews traveled from his home in Reno, Nevada to Salt Lake City, Utah in order to meet with Plaintiff on July 24, 2011.³

3. During that meeting, Mr. Matthews told Plaintiff that throughout most of the 1990's Matthews had been employed by the FBI as an under-cover operative and assigned to PATCON. Mr. Matthews told Plaintiff that he had been told by the FBI that the purpose of PATCON was to infiltrate and to monitor the activities of extreme political right consisting of organizations such as the Ku Klux Klan and various Neo-Nazi groups, but that Matthews no longer believed what he had been told by the FBI about the purpose of PATCON.⁴

4. Mr. Matthews told Plaintiff that based upon his experience he now believed that the FBI's objective in PATCON had been to infiltrate and to incite these fringe groups to violence. To illustrate this point, Mr. Matthews told Plaintiff about a PATCON operation designed to promote an extremist group to carry out a plan to damage the cooling system of the Brown's Ferry Nuclear Power Plant in Alabama, and that as part of PATCON automatic weapons were being

³ *Id.* ¶ 3.

⁴ *Id.* ¶ 4.

sold to right-wing extremists during the 1990's from the Lone Wolf gun store in Arizona that was implicated in the recent *Fast and Furious* scandal involving the transfer of automatic weapons to members of the Mexican Drug Cartel.⁵

5. More importantly, Mr. Matthews told Plaintiff that prior to the Oklahoma City Bombing he had seen Timothy McVeigh and a German National by the name of Andreas Strassmeir at a militia training facility near San Saba, Texas. According to Mr. Matthews, he had reported the McVeigh-Strassmeir siting to the FBI, and was told by the FBI that the Bureau was already aware of that fact, which indicated to Mr. Matthews that others within the FBI were monitoring McVeigh on his run up to the attack on the Murrah Building.⁶

6. Ultimately, Mr. Matthews told Plaintiff that he was very ill from exposure to toxic chemicals while serving with the Third Marines in Vietnam, that he was disabled and that Matthews wanted the truth about PATCON told while he was still able to do so. Plaintiff, too, had served with the Third Marines and with

⁵ *Id.* ¶ 5.

⁶ *Id.* ¶ 6.

the help of a friend and fellow Marine, Roger Charles, was able to put Mr. Matthews in contact with Newsweek Magazine⁷.

7. Newsweek assigned reporter Ross Schneiderman to write the PATCON story. Mr. Schneiderman spent months confirming what Matthews had said about PATCON. The story was set to appear in Newsweek the last Monday of November in 2011. The Thursday before the story was to run, Mr. Schneiderman telephoned Plaintiff to read him part of the Matthews/PATCON story.⁸

8. Mr. Schneiderman told Plaintiff that he had been able to confirm what Mr. Matthews had said about PATCON. But several days later, when the Newsweek story appeared in print and on-line, the focus of that story was upon Mr. Matthews' under cover activities in a most non-specific and general nature. There was no mention of PATCON or the various PATCON operations about

⁷ *Id.* ¶ 7.

⁸ *Id.* ¶ 8.

which Mr. Matthews had spoken.⁹ However, shortly thereafter others began to report on the story that Newsweek had refused to print.¹⁰

9. Meanwhile, Mr. Matthews was upset with the Newsweek story. He expressed to Plaintiff that he felt betrayed because all Newsweek had done was to expose him to possible retribution from the various groups that he had infiltrated as part of the PATCON without exposing PATCON. Since then, both Mr. Charles and Plaintiff have remained in contact with Mr. Matthews.¹¹

10. When the instant case was set for trial, Plaintiff asked Mr. Matthews if he would be a witness. Plaintiff asked Matthews if he would testify about PATCON and, especially the McVeigh/Strassmeir San Saba, Texas event. It was Plaintiff's belief that if the FBI had in fact been monitoring McVeigh, then the Bureau had to have known about the plot to bomb the Murrah Building, but failed to prevent that attack. It was likewise Plaintiff's belief that had the FBI been monitoring McVeigh then the videotape of the bomb being delivered to the Murrah Building may have either revealed the identity of an FBI operative, or else

¹⁰ *Id.* ¶ 9.

¹¹ *Id.* ¶ 10.

it may have been made by the FBI as part of its surveillance of McVeigh and not by a security camera on a building. If either of these scenarios were true, that surely would have been a very good motive for the FBI's supposed failure to locate the videotape and records at issue in this case.¹²

11. Plaintiff told Mr. Matthews that because he lived in Reno, Nevada, Matthews could not be subpoena to testify at trial. Plaintiff also told Matthews that even if Plaintiff could compel Matthews' attendance at trial by subpoena, Plaintiff would not do so. Plaintiff told Matthews that if he was going to testify about PATCON, it had to be his own choice. Plaintiff felt this way because of the possible risk to Mr. Matthews and his family in speaking out about his PATCON activities.¹³

12. Mr. Matthews told Plaintiff that he would gladly testify. Mr. Matthews felt that it would provide him with the opportunity to tell the PATCON story that Newsweek had not told. Consequently, Plaintiff listed Mr. Matthews as

¹² *Id.* ¶ 11.

¹³ *Id.* ¶ 12.

a witness in the *Pre-Trial Order*, and identified Matthews area of testimony as PATCON.¹⁴

13. On July 7, 2014, following the hearing on Defendants' *Motion in Limine*, Plaintiff e-mailed Mr. Matthews to let him know that he was going to be able to testify. Plaintiff also spoke with Mr. Matthews by telephone, and Mr. Matthews expressed concern to Plaintiff about coming to Salt Lake City, Utah to testify. Mr. Matthews was worried about his personal safety, which is why Plaintiff moved the Court for an order allowing Matthews to testify by video-conference from an undisclosed location.¹⁵

14. The Court granted that *Motion* on July 15, 2014, and Plaintiff immediately told Mr. Matthews by e-mail of that fact. Plaintiff likewise told Mr. Matthews that he would be the last witness, and that Plaintiff expected him to testify on Wednesday, July 30, 2014.¹⁶

15. On July 16, 2014, Mr. Matthews e-mailed both Mr. Charles and Plaintiff to let them know that he had suddenly lost both his home internet

¹⁴ *Id.* ¶ 13.

¹⁵ *Id.* ¶ 14.

¹⁶ *Id.* ¶ 15.

connection and home telephone. Matthews suspected the FBI was behind both of these events because he was going to testify in this case.¹⁷

16. As the trial approached, Plaintiff continued to telephone Mr. Matthews to go over his trial testimony. However, Matthews never answered Plaintiff's calls. Finally, on the morning of July 29, 2014, at Plaintiff's request, Mr. Charles telephoned Mr. Matthews and spoke with him.¹⁸

17. Mr. Charles informed Plaintiff that Mr. Matthews had said that he was not going to testify. Mr. Charles also informed Plaintiff that Mr. Matthews said that he had been contacted by someone within the FBI and was told to "stand down." Mr. Matthews said, too, that he had been threatened. According to Roger Charles, the FBI had threatened to interfere with or terminate Mr. Matthews' disability and other veteran's benefits.¹⁹

18. Plaintiff notified the Court reporter that Mr. Matthews would not

¹⁷ *Id.* ¶ 16. See also *Charles Declaration*, Doc. 200, ¶ 3.

¹⁸ *Id.* ¶ 17. See also *Charles Declaration*, Doc. 200, ¶'s 4 through 11.

¹⁹ *Trentadue Declaration*, Doc.201, ¶18. See also *Charles Declaration*, Doc. 200, ¶'s 4 through 11.

be testifying. Plaintiff also reported his suspicions of witness tampering to the Court, and the Court ordered defense counsel to investigate and report upon these allegations.²⁰

19. Before trial on July 31, 2014, Plaintiff was able to speak with Mr. Matthews by telephone. Plaintiff told him that the Court had ordered defense counsel to investigate this matter, and Plaintiff ask Matthews to cooperate with defense counsel in completing that investigation. Mr. Matthews was encouraged by the fact that this was to be a Court-ordered investigation conducted by Assistant United States Attorneys. Mr. Matthews also told Plaintiff that exposing the fact that he had been threatened by the FBI would be “good insurance” against any future retaliation against him from the Bureau.²¹

20. During that conversation, Mr. Matthews related to Plaintiff the events leading up to his refusal to testify, including the name of the FBI agent who had contacted him, Adam Quirk. Mr. Matthews told Plaintiff that he was first contacted by Agent Quirk after the Court denied defendants’ *Motion in Limine*

²⁰ *Trentadue Declaration*, Doc. 201, ¶ 19,

²¹ *Id.* ¶ 20.

designed to keep Mr. Matthews from testifying. According to Mr. Matthews, Agent Quirk had called him several times, telling him that it would be best for everyone if he did not testify. Agent Quirk told Mr. Matthews to take a vacation so that he could not be subpoenaed, and if he was subpoenaed that Mr. Matthews should answer questions put to him about PATCON with “I don’t recall.”²²

21. Mr. Matthews told Plaintiff that he took Agent Quirk’s comments to him as a threat and “took a vacation.” Mr. Matthews likewise told Plaintiff that Agent Quirk said that defense counsel were supposed to have notified both Plaintiff and the Court that he was not going to testify, and that this notice was supposed to have been communicated to them the week before the start of the trial.²³

22. Mr. Matthews said that he would cooperate with defense counsel in their Court-ordered investigation of this matter. Consequently, Plaintiff e-mailed this information to defense counsel, and reported it to the Court. Mr. Matthews was also copied on that e-mail, and he never notified Plaintiff that the

²² *Id.* ¶ 21.

²³ *Id.* ¶ 22.

matters set forth in that e-mail to defense counsel were not true.²⁴ Plaintiff likewise reported back to Mr. Matthews both by e-mail and telephone.²⁵

23. On Thursday, July 31, 2014, Plaintiff e-mailed defense counsel to complain about their failure to do a good faith investigation into the FBI's alleged witness tampering, including the fact that they had not even bothered to speak with Mr. Matthews. Needless to say, this was not the good faith investigation that Mr. Matthews had expected. Mr. Matthews was also copied on that e-mail.²⁶ Again, Mr. Matthews never notified Plaintiff that the matters set forth in that e-mail to defense counsel were not true.

24. On July 31, 2014, Plaintiff spoke with Mr. Matthews by telephone about preparing for the August 25, 2014 hearing. On August 1, 2014, Plaintiff also e-mailed both Mr. Matthews and Mr. Charles with respect to what he need them to do in order to held him get ready for the August 25, 2014 hearing.

²⁴ The fact that Matthews never said that Plaintiff's representations in that e-mail to defense counsel were inaccurate or otherwise not true is telling. His silence is an admission as to the truth of the matters set forth therein.

²⁵ *Id.* ¶ 23.

²⁶ *Id.* ¶ 24.

25. Mr. Matthews was to prepare for Plaintiff a time-line of when Matthews had been contacted by Agent Quirk of the FBI, all of the threats that had been made to him, or his family, by Agent Quirk and, if possible, the telephone number from which those calls had been made to him by Agent Quirk. Mr. Charles was tasked with finding out the type of telephone calls made and calls received records that were maintained by FBI field offices so that Plaintiff could subpoena these records for the August 25, 2014 hearing.²⁷

26. On August 2, 2014, Plaintiff received an e-mail from Mr. Matthews admitting that he had spoken with his “handler,” Don Jarrett and that, based upon that conversation, he decided not to testify. In that e-mail, Mr. Matthews also said for the first time that he did not want to testify, and that neither he nor his family had never been threatened or otherwise encouraged not to testify. Plaintiff immediately forwarded that e-mail to the Court.²⁸

²⁷ *Id.* ¶ 25.

²⁸ *Id.* ¶ 26.

**ARGUMENT: PLAINTIFF HAS ESTABLISHED A
PRIMA FACIE CASE OF WITNESS TAMPERING**

As it is currently structured, with only Agent Quirk scheduled to testify, there may be no need for the August 25, 2014 hearing. This is so because Plaintiff has established a *prima facie* case of witness tampering by the FBI. “Witness tampering” consists of using threats, intimidation, or other means to induce and/or attempt to induce a person not to testify in an official proceeding, not testify truthfully, or to avoid being served with legal process.²⁹ Furthermore, even if the Court believes Mr. Matthews when he now suddenly claims that he did not want to testify and that he was not threatened, it is undisputed that Agent Quirk and Agent Jarrett suggested to Matthews that he not testify and that Matthews should “take a vacation” so as to avoid being served with a subpoena, which Matthews did.³⁰ That is witness tampering, especially when those “suggestions” came from the federal government and, as in Mr. Matthews case, the witness was obviously very vulnerable to such coercion.

²⁹ See 18 U.S.C. §§ 1512 (b) through (d).

³⁰ See Doc. 191-10.

But there were more than these suggestions about not testifying made by Quirk and Jarrett to John Matthews. There were threats made to Matthews and instructions to “not recall” if Matthews was subpoenaed to testify. Matthews was and is Defendants’ agent and, therefore, his e-mails and statements to Plaintiff and Roger Charles are admissions chargeable to Defendants.³¹ Agent Quirk’s testimony on these matters is, therefore, no longer necessary, which brings up the issue of the August 25, 2014 hearing being pointless as it is now structured.

Admittedly, it is important to have Agent Quirk testify under oath about his calls to John Matthews, including any records made of those calls. But rather than focusing exclusively upon Agent Quirk, the focus of that hearing should be upon Matthews’ handler, Don Jarrett. More specifically, when and upon whose instructions did Jarrett speak with Matthews, what Jarrett said to Matthews and/or Agent Quirk and to whom did Jarrett report about his pre-trial contacts with Matthews. The focus of that hearing should likewise be upon defense counsel because it appears that everyone but the Court and Plaintiff knew that Matthews was not going to testify. If defense counsel did have such prior knowledge that

³¹ See *Fed. R. Evid.* 801(d).

Matthews either would not or might not testify, it would be important to know when they learned that Matthews was not going to testify or might not testify, who gave them that information and what exactly was said to them.

CONCLUSION

The August 25, 2014 hearing should go forward but not as currently structured. The focus of that hearing should now be upon Don Jarrett and defense counsel. Consequently, Defendants should also be required to produce Mr. Jarrett as a witness at that hearing and all FBI records that, directly or indirectly, reflect or report upon their agents' contacts with John Matthews related to his testifying at the trial of this case. Defense counsel should likewise be required to report to the Court with respect to when they learned that Matthews was not going to testify or might not testify, who gave them that information and what exactly was said to them.

Dated this 8th day of August, 2014.

/s/ jesse c. trentadue
Jesse C. Trentadue

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August 2014, the foregoing
**PLAINTIFF'S REPLY MEMORANDUM RE: MOTION TO STRIKE
AUGUST 25, 2014 HEARING** as served by electronic process upon:

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