

Ec4rlitc

1 UNITED STATES DISTRICT COURT

1 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA

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4 v. 12 Cr. 647 (KTD)

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5 MICHAEL LITTLE,

5

Conference

6 Defendant.

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8 New York, N.Y.

8

December 4, 2014

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10:10 a.m.

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10 Before:

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11 HON. KEVIN THOMAS DUFFY

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12 District Judge

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16 APPEARANCES

17

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18 PREET BHARARA

18 United States Attorney for the

19 Southern District of New York

19 STANLEY J. OKULA

20 Assistant United States Attorney

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21 SEAN M. MAHER

22 standby counsel for Defendant

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23 MICHAEL LITTLE (tel.)

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1 (Case called)

2 THE COURT: Mr. Okula, I think I should start with

3 something. On the front hall of the Department of Justice is

4 engraved the whole section of United States against Berger

5 about how the job of the justice department is to see justice

6 is done. Justice is founded in truth.

7 Most of the time the judges of this court depend upon

8 the U.S. Attorney's office to tell the truth. I have now

9 caught you flat-out in a lie. I want you to know that. I

10 would prefer henceforth that you advise your superiors that you
11 are not to come to this Court alone, you are to come with
12 supervision. If they don't mind you lying, then the whole
13 office is going to pay for it. I have made known to the other
14 judges of this Court my findings in connection with you, sir.

15 We now are here for purposes of getting a letters
16 rogatory sent out. Mr. Little, have you received a copy of the
17 letters rogatory?

18 THE DEFENDANT: I have indeed, your Honor.

19 THE COURT: You, sir, have been sending me directly
20 things, but you have standby counsel. An awful lot of the
21 stuff that has to be done in connection with getting letters
22 rogatory cannot be handled by you if you are going to be in
23 London. We go from there. I would suggest that you do all of
24 your contacts through standby counsel. It makes life a lot
25 simpler for everybody involved.

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1 You raised two problems with the draft which I

2 submitted to everybody. One of them is under the title "The
3 Allegations." This is on your letter dated November 12. You
4 want a change, and I made the change.

5 The second request you had for a change is "Assistant
6 Requested." The way I had it set up was to order Dr. Mullhaupt
7 to appear with any documents relating to his testimony. You
8 want it relating to the declarations and exhibits filed with
9 this Court on November 26th. The testimony is not going to be
10 restricted in that way. He's got to show up with everything,
11 and he has to be ready to give full testimony.

12 By the way, someone should tell me whether he has been
13 completely adverse to testifying. Are we going to have to
14 chase him with letters rogatory, etc.? I don't know.

15 THE DEFENDANT: Could I answer that, your Honor?

16 THE COURT: Go ahead.

17 THE DEFENDANT: He has informed me, provided he
18 doesn't have to come to the United States because of his
19 concerns in respect of that, that he is perfectly willing, as
20 you put in the body of the letters rogatory, to give full
21 testimony according to Swiss law.

22 THE COURT: To start this thing going, I have signed

23 this morning the letters rogatory. I believe that it will be
24 necessary for exemplified copies of those to be forwarded to
25 the state department.

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1 I am not an expert in letters rogatory. I have been a
2 judge for 42 years and I've been around the courthouse for well
3 over 50, but I've not dealt with many letters rogatory. I hope
4 somebody here is an expert in it or at least is willing to do
5 the necessary searching for it.

6 MR. OKULA: Your Honor, if I may. I anticipated this
7 issue about how it was going to be transmitted to the Swiss
8 authorities. I have spoken to our Swiss representative at the
9 office of international affairs, and I can provide the Court
10 with the name of the official and the address of the official
11 who would be the recipient of the letter rogatory on behalf of
12 the Swiss. I would be happy to do that, your Honor.

13 THE COURT: My understanding is the letters still go
14 through the state department. I'm not going to swear to that.

15 It is protocol which I don't necessarily understand. I would
16 prefer to get the job done rather than worry about some
17 diplomat's feelings that he is not being included. The state
18 department is in charge of diplomats' feelings; I don't really
19 care about that.

20 THE DEFENDANT: May I interject one thought, your
21 Honor, or one suggestion or submission to you? As Mr. Okula
22 has stated, he has been in touch with the parties. With Mr.
23 Okula's assistance through the office of international affairs
24 in the justice department, this matter could be expedited very
25 swiftly and letters rogatory bypassed. I have made submissions

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1 to that end, and to date Mr. Okula has resisted. Perhaps he
2 has changed his mind.

3 THE COURT: How about it?

4 MR. OKULA: Your Honor, from my discussions with my
5 representatives of the Department of Justice office of
6 international affairs who handle Swiss matters, they tell me

7 that there is formal process, a request that is necessary, such
8 as a letter rogatory, in order to set this process in motion.
9 In other words, the suggestion, as I understand it, by Mr.
10 Little that simply upon my request or the office of
11 international affairs' request that the Swiss could expedite
12 the deposition, it is my understanding that that is not the
13 case.

14 THE COURT: There is a Mutual Legal Assistance Treaty
15 that I am well aware of. I know that this Court on occasion
16 has ordered that the Department of Justice use those things to
17 make sure that we get depositions, whatever you want to call
18 it, testimony, taken and recorded promptly. I'm loath to do
19 that because I prefer that a certain amount of -- well, having
20 the Department of Justice do it on its own.

21 The job is to find justice, not just to get another
22 press release. I would prefer at the outset that we just
23 request that. If necessary, I assure you, I intend to order
24 it. And in order to make sure that the order goes, I'm pulling
25 the plug on the speedy trial clock. You have from now until

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1 February 15th as of today -- or as of tomorrow, actually. It
2 is stalled. I'm not pulling the plug on that today, but I
3 will.

4 This is something that's got to be done promptly. It
5 is to the benefit of the people of the United States to have
6 justice done and not just another scalp on the wall. Is that
7 understood?

8 MR. OKULA: Yes, your Honor.

9 THE COURT: About halfway through February I will be
10 in contact with you guys. Actually, let's put it this way.
11 You will be in contact with me on February 15th, on or about.
12 What I am looking for is a letter telling me what steps have
13 been taken and how close are we to obtaining the deposition.

14 There is nothing, to my mind, left in this case except
15 the deposition and the trial. Let's get it done.

16 MR. OKULA: Your Honor, there is actually one other
17 matter, if I may be heard, if this is the appropriate time.

18 THE COURT: Go ahead.

19 MR. OKULA: Judge Carter had issued a ruling allowing

20 us to take the rule 15 testimony of a witness located on the
21 island of Guernsey in the Channel Islands. We are prepared to
22 ask the Guernsey authorities to summon that witness to court in
23 order for us to take the testimony there. Judge Carter was
24 holding off on allowing us to proceed on that until the letter
25 rogatory was issued, but I don't think there is any impediment

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1 now for us to be able to go over to take that testimony.

2 THE COURT: Let's see if we get a letter rogatory
3 complied with first. Apparently, this can be done relatively
4 rapidly. There is no sense in you going and getting this
5 testimony in Guernsey until such time as the Swiss deposition
6 is complete.

7 MR. OKULA: Very well. Your Honor, may I be heard on
8 one additional matter at the end?

9 THE COURT: Go ahead.

10 MR. OKULA: With respect to your comments at the
11 outset, your Honor, I want to be perfectly clear to the Court.

12 There is absolutely no intention to --

13 THE COURT: Listen. You knew that this was a problem
14 with me before. The last time we met prior to this time, we
15 talked about the possibility of the reasons why five
16 indictments were returned. I pointed out my belief that most
17 likely it was because of your desire or someone's desire at the
18 U.S. Attorney's office for press releases. That gave you the
19 opportunity to go back and check.

20 Then you came in here and completely denied that press
21 releases had been issued. Yet Mr. Little, before the day was
22 out, sent me copies of the press releases. The following day I
23 received from you an admission that in fact there had been
24 press releases every time. That to me is a lie. You knew
25 about it. You had the opportunity to check on it.

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1 You have been around for a while. You know the
2 routine at the U.S. Attorney's office. I've been around for a
3 while, too, and I can see. I know that the normal thing is to

4 say that there are press releases. It is the highly abnormal
5 situation when a press release is not issued. That doesn't
6 mean that it makes the newspaper, but at least a press release
7 is issued.

8 Here we find you had the opportunity to check, I see
9 no reason to believe that you didn't check, and you came in and
10 represented that it never happened. It happened. Too bad.
11 It's in writing and you were proved wrong.

12 MR. OKULA: Judge, in fairness, the issue of the press
13 releases was raised at the time of the conference, and that's
14 when I made my mistaken recollection about there not having
15 been press releases with respect to all of the cooperators'
16 pleas. Our acknowledgment letter noted that with respect to
17 one of the cooperators' pleas, it had announced the fact of the
18 earlier plea. So there wasn't separate press releases with
19 respect to each and every one of the cooperating witnesses.

20 I know your Honor is having difficulty accepting --

21 THE COURT: Cooperating witnesses or defendants?

22 MR. OKULA: There was one defendant as well.

23 THE COURT: Not this defendant. You are playing games
24 with me, but I caught you. You're not going to get away with

25 it. That's all there is to it. You can talk from now until

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1 Sunday and try to spin out some story, but as far as I'm
2 concerned, you're branded as a liar and you will remain a liar
3 for the rest of your life. That's that.

4 I want a letter on February 15th, and there better be
5 some activity. By the way, I would recommend that you read
6 that quote from Berger that in the front hall of the justice
7 department.

8 (Adjourned)

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