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**FEDERAL COMMUNICATIONS
COMMISSION**

In Matter of:) CIB DOCKET No.: 98-44
)
JOSEPH FRANK PTAK,)
San Marcos, Texas)

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Date: May 19, 1998

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Matter of:) CIB DOCKET No.: 98-44
)
JOSEPH FRANK PTAK,)
San Marcos, Texas)

FCC Courtroom 2
2000 L Street, N.W.
Washington, D.C.

Tuesday
May 19, 1998

The parties met, pursuant to Order to Show Cause
Why a Cease and Desist Order should not be issued, at 9:04
a.m.

BEFORE: HON. RICHARD L. SIPPEL
Administrative Law Judge

APPEARANCES:

On behalf of Compliance and Information
Bureau:

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P R O C E E D I N G S

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JUDGE SIPPEL: This is the first prehearing conference in the case entitled In Re: Joseph Frank Ptak, CIB Docket Number 98-44. And if Bureau counsel could please identify themselves first. Mr. Shook?

MR. SHOOK: Yes, Your Honor. James Shook and W. Riley Hollingworth, on behalf of the Chief Compliance and Information Bureau.

JUDGE SIPPEL: All right. Good morning, gentlemen.

MR. SHOOK: Good morning.

MR. HOLLINGWORTH: Good morning, sir.

JUDGE SIPPEL: I see nobody on the other side of the table. Do you have any knowledge of the whereabouts of the party or anybody representing the party?

MR. SHOOK: No, Your Honor. We have received no phone calls, and the documents we have received we can talk about during the course of the conference, but none of them indicated whether or not Mr. Ptak was planning to appear today, either in person or by speaker phone.

JUDGE SIPPEL: All right. Let me make a brief preliminary statement then. I've been designated the presiding administrative law judge by Order FCC 98N-46 which was released on April 16th, and in that order this prehearing conference was also set down for this particular

1 day -- that is, May 19th at this particular hour, that is --
2 9:00 a.m. And by the clock in the back of the room it's
3 about five minutes after 9:00.

4 I have had -- the only contacts that I have had
5 with Joseph Frank Ptak have been through miscellaneous
6 documents in the form of pleadings that have been sent at
7 various times to my office. And I've accounted for those
8 documents in two orders I've already issued in this case, so
9 there's no need for me to go into that.

10 Other than those documents and other than what
11 I've written about, or what was done with those documents,
12 we've received no contact -- that is me, my office, myself
13 nor my legal technician have received any contact from
14 Mister -- anybody representing Mr. Ptak or representing
15 himself to be a Mr. Ptak. So -- but I have no indication to
16 indicate, nothing that would indicate to me that he hasn't
17 received ample notice of this conference this morning. And
18 I take it you don't have anything that would indicate to the
19 contrary either.

20 MR. SHOOK: Your Honor, the only piece of paper
21 that I have that would, I think, be pertinent for this
22 morning would be a document entitled motion for continuance.
23 But even with respect to that, the motion for continuance
24 seems directed more toward the hearing date that was set
25 forth in the assignment order rather than the conference

1 date.

2 If you wish, I could read it into the record, or I
3 could have a copy made and given to you, assuming that you
4 don't have such a document.

5 JUDGE SIPPEL: I suspect I do have it, at least a
6 copy of it. Is this one that references the date of May 10?

7 MR. SHOOK: Yes. It indicates that it was signed
8 and prepared on May 10, apparently mailed sometime
9 thereafter, I believe received at the Commission on May 14.

10 JUDGE SIPPEL: It's got me on there as a
11 Certificate of -- Service, is that right?

12 MR. SHOOK: Yes, sir. It has yourself and it has
13 Norman Goldstein.

14 JUDGE SIPPEL: Oh. There's a little bit of a
15 misspelling of my name, but there's nobody else in here
16 that's close, so that's me.

17 But did you have any indication that these were
18 filed, this document that you're addressing right now. Has
19 it been filed with the Secretary's office, do you know? Do
20 you have any knowledge of that?

21 MR. SHOOK: Your Honor, it's my understanding that
22 the various documents that were dated on May 10 and received
23 at the Commission on May 14th were filed by members of the
24 Compliance and Information Bureau.

25 JUDGE SIPPEL: The stamp actually did the filing,

1 then.

2 MR. SHOOK: Yes, sir, that's my understanding.
3 Now, I don't have in front of me, though, the actual filing
4 date, so --

5 JUDGE SIPPEL: Well, the only reason I'm asking
6 that is because it's a -- if these are actually on file with
7 the Commission, it doesn't make any difference for these
8 purposes as to who did the filing. But if they actually are
9 on file, I think we can probably dispose of these this
10 morning by bench ruling, if you're prepared to do that. I'm
11 talking about these what I referred to as procedural
12 motions. There are also three substantive motions that I'd
13 want to talk to in a different context than these, what
14 we've got here.

15 What I have is a motion for continuance, a motion
16 to proceed in forma pauperis, a motions to intervene, and a
17 motion for a change of venue.

18 MR. SHOOK: Yes, Your Honor. We were prepared to
19 address all of these orally today, if that's your pleasure.

20 JUDGE SIPPEL: I would prefer to do that, and we
21 can dispose of them. I believe I can dispose of them fairly
22 readily that way. But before we pass on to anything like
23 that, I want to be sure that we're clear for purposes of
24 this record that what appears to have happened is there
25 appears to be as far as anybody can tell a default in Mr.

1 Ptak appearing at the appointed time and place for the first
2 prehearing conference.

3 Do you have any information or any insight, or
4 would you like to make any comment one way or the other on
5 that observation?

6 MR. SHOOK: Well, Your Honor, only that, as I
7 indicated previously, we have had no oral contact with Mr.
8 Ptak. The only contact that we have had have been through
9 these various admissions that we can, you know, talk about
10 one by one. So far as I am aware, there was no written
11 submission on his part to indicate that he was not going to
12 appear today. I am aware of no oral or written contact from
13 him that would suggest he wanted to appear by speaker phone.
14 He simply isn't here.

15 JUDGE SIPPEL: Well, I'm prepared to consider that
16 to be a default for purposes of this prehearing conference,
17 and I see nothing, from what you've said, nothing has ever
18 come -- has come to my attention to be -- that would be
19 contrary to that determination. So --

20 MR. SHOOK: That's really number one.

21 JUDGE SIPPEL: Well, what's your next item? Do
22 you want to move on to these motions, or did you have
23 something else you wanted to say preliminarily?

24 MR. SHOOK: No, I'd like to address each of these
25 documents one by one --

1 JUDGE SIPPEL: Let's do it.

2 MR. SHOOK: -- and get it -- get it on the record
3 as to, you know, what our views of the various documents
4 are. And, if possible, we could have you rule on them
5 immediately.

6 JUDGE SIPPEL: That's fine. But I want to be sure
7 again that the record is clear that it, based on your
8 information, because I don't it for a fact that each
9 individual item that you're addressing has actually been
10 filed.

11 MR. SHOOK: Your Honor, there is one. The first
12 document that I'm going to discuss is one that I do not know
13 one way or the other whether it has been filed.

14 JUDGE SIPPEL: Which is that one?

15 MR. SHOOK: Okay, this is a document that is
16 signed only by Joseph Frank Ptak. It is styled:
17 "Appearance Statement. Motion For Inclusion of Additional
18 Affected Parties and Motion For Change of Venue." This
19 particular document is undated and it does not have a
20 Certificate of Service.

21 If Your Honor does not have a copy of it, I can
22 have a copy made and delivered to you.

23 JUDGE SIPPEL: It sounds -- what you're describing
24 sounds familiar to me. Help me -- just give me a minute
25 here. Go off the record. I may need two minutes.

1 (Off the record.)

2 JUDGE SIPPEL: Back on the record.

3 I have found -- I believe I have found what you
4 are referring to. It's called a -- I'll repeat what you
5 just said, I believe. Motion for Party Status in the Show
6 Cause Hearing of Joseph Frank Ptak and Motion for Change of
7 Venue.

8 MR. SHOOK: No, sir. What I have, I believe, is a
9 different document.

10 JUDGE SIPPEL: All right, can you pass it up and
11 let me take a look at it?

12 MR. SHOOK: (Document tendered to the Judge.)

13 JUDGE SIPPEL: Yeah, all right. I am sure that I
14 have a copy of that, but I don't know if I have it with the
15 package of documents that I brought in the courtroom. But
16 you may go ahead and -- first of all, it is significant to
17 me that it hasn't been filed as far as a ruling is
18 concerned. Procedurally, I don't have to consider anything
19 that hasn't been filed, but you go ahead and you tell me
20 what you want to do with the argument.

21 MR. SHOOK: Well, Your Honor, I think that we
22 should consider this in conjunction with a document that had
23 been received by your office initially and is referenced in
24 your order released April 29, 1998.

25 JUDGE SIPPEL: I got it.

1 MR. SHOOK: Which document do you have now?

2 JUDGE SIPPEL: I have just the one you're
3 referring to.

4 MR. SHOOK: Okay. By chance, does yours reflect
5 that filing date?

6 JUDGE SIPPEL: It does. It does. It shows
7 received May 7th by the FCC Office of the Secretary.

8 MR. SHOOK: All right.

9 JUDGE SIPPEL: Now, you want to be sure. Do you
10 want to take a look? Let me pass -- let me have the
11 reporter pass it to you and be sure that you compare them.

12 MR. SHOOK: It's the same document, Your Honor.

13 JUDGE SIPPEL: Okay, so we'll consider this --
14 obviously, this is a document which would have been filed,
15 so we can act on it squarely on the merits.

16 MR. SHOOK: All right. In the first instance,
17 Your Honor, the Bureau would accept this filing, albeit
18 late, as Mr. Ptak's Notice of Appearance.

19 JUDGE SIPPEL: Okay, I'll accept that
20 representation and I'll take that in the form of a motion,
21 and I'll rule on that right now that there has been a
22 sufficient filing of a Notice of Appearance under the rules
23 with respect to Mr. Joseph Frank Ptak.

24 MR. SHOOK: Now, there are apparently two
25 additional matters that are referenced in here: 1) a Motion

1 for Inclusion of Additional Affected Parties. The Bureau
2 would oppose that. There are two problems with it at least.
3 The first is that the Notice of Appearance and any motion
4 should be filed separately.

5 The second matter is that what this really is in
6 the Bureau's view, you know, is some kind of vague request
7 for allowing intervention on the part of additional unnamed
8 persons at this point; and that the intervention rules are
9 covered under 1.223 of the Commission's rules; and that this
10 document does not comply with that, either in form or in
11 substance. So the Bureau would oppose any such motion.

12 JUDGE SIPPEL: Well, insofar as -- yeah. Insofar
13 as that relief is sought in this particular document, I
14 would agree. I would grant that your opposition would be
15 accepted. But it does raise a question that I have in mind
16 that has come to me in terms of reviewing the other papers
17 that Mr. Ptak has sent in, and also I think it -- well, let
18 me paraphrase what I see the situation to be factually.

19 This station is being operated out of his
20 premises. The operation is being conducted primarily by him
21 and this other individual, Mr. Stefanoff, Mr. Jeffrey
22 Stefanoff, under the auspices of this newspaper, Hays County
23 Guardian. And from what I've read thus far, it appears --
24 this is not determined but it appears that -- at least it's
25 being represented that the transmitter and transmitting

1 equipment is owned by the Hays County Guardian.

2 I don't know -- I know that you've got references
3 that are in the hearing designation order to Mr. Lloyd Perry
4 and Mr. James Wells, who are the CIB representatives on the
5 scene down there in Dallas. And whether or not they can or
6 cannot confirm that is -- is not for something to be
7 determined here today. But I would think that if this case
8 reaches a point where there needs to be a, or it's justified
9 to issue a cease and desist order, that we would want to be
10 sure that it's being directed towards all the necessary
11 persons.

12 MR. SHOOK: Your Honor, the Bureau's position on
13 that is that for purposes of this proceeding our concern is
14 with Mr. Ptak. It may well be that with respect to the
15 operation of this particular radio station that additional
16 persons should ultimately now be in a position to receive a
17 similar order.

18 However, this proceeding now does not include
19 those persons, and the procedural steps that may be
20 necessary to include those persons may or may not have been
21 taken. The Bureau doesn't want to get into a situation
22 where we have an order directed to persons who, for various
23 legal reasons, you know, could contest those later on in
24 court because certain preliminary steps weren't followed.
25 So to that extent, we do not want to include Mr. Stefanoff

1 or, I believe the third person involved in this operation is
2 a Mr. Simpson.

3 JUDGE SIPPEL: I did see the name "Simpson" that
4 came in on one of the papers, yeah. Yes, I agree with you.

5 MR. SHOOK: So for now we simply want to direct
6 our attention to Mr. Ptak.

7 JUDGE SIPPEL: All right. Well, I hope that you
8 do. I'll accept that for this morning, but you understand
9 what my concern is: that we're going to get an order issued
10 out of here, and the idea for the order is to stop the
11 transmission on that frequency down there, and it's only
12 directed to Mr. Ptak. And if what he's telling is the truth
13 that -- or he has the facts straight, that is, Ptak -- that
14 the equipment is owned by the newspaper and they're running
15 it under the auspices of the newspaper and Mr. Stefanoff,
16 there would be nothing to prevent Mr. Stefanoff from
17 continuing to operate the station.

18 MR. SHOOK: We understand that, Your Honor.

19 JUDGE SIPPEL: And I would ask you to think and
20 consider: Is there, to use a little bit of legal leger
21 demain here, is there a -- what am I thinking of? -- an
22 aiding and abetting element to this cease and desist remedy?
23 In other words, can the cease and desist order not only go
24 towards the party and Joseph Ptak -- it appears to be an
25 appropriate, if not **the** appropriate party -- but what about

1 persons who are aiding and abetting it? Would they be
2 covered by the order? Or can the order be drafted in such a
3 way that it would include aiders and abettors?

4 MR. SHOOK: Your Honor, we could certainly go back
5 and give that question some more thought. But our
6 preliminary analysis of that matter is that because there
7 are certain preliminary steps that are supposed to be taken
8 prior to the issuance of an Order to Show Cause, and that
9 Mr. Stefanoff and Mr. Simpson were not necessarily included
10 in those steps in the same way that Mr. Ptak was, that we
11 could run into procedural problems down the road should a
12 cease and desist order be issued which included Mr.
13 Stefanoff and Simpson. And, you know, we might have
14 difficulty in forcing such in court.

15 We just don't want to -- we just don't want to go
16 down that road yet until we are certain that, you know, we
17 have done everything that we need to, preliminarily, with
18 respect to those two individuals.

19 JUDGE SIPPEL: Is it conceivable -- you don't have
20 to tell me for sure -- but is it possible that at a later
21 point in time that the Bureau might be moving to bring in
22 additional parties?

23 MR. SHOOK: Either that or instituting a separate
24 proceeding.

25 JUDGE SIPPEL: Then -- I hear you. All right.

1 All right.

2 MR. SHOOK: Okay. Your Honor, there is an
3 additional matter that's covered in this first document.

4 JUDGE SIPPEL: Go right ahead.

5 MR. SHOOK: And that's with respect to the motion
6 for a change of venue.

7 JUDGE SIPPEL: You may address that.

8 MR. SHOOK: The Bureau opposes it. Again, as a
9 procedural matter, this motion is included in a notice of
10 appearance and should be filed separately. And the second
11 matter is that, although the motion, apparently, is directed
12 to the Commission, if one looks at the, you know, title or -
13 - excuse me, not the title -- but if you look at the first
14 page of the document instead of the document being directed
15 to yourself, it's directed to the Commission.

16 So, arguably, you know, the motion is being
17 directed to the right place, but the Bureau would still
18 oppose it, substantively.

19 JUDGE SIPPEL: All right. Now, that's an
20 excellent observation and so, you know, in a way Your Honor
21 does not have authority to rule on this motion, except
22 perhaps procedurally, to dismiss it because it's improperly
23 before you.

24 JUDGE SIPPEL: Well, I hear you. I don't want to
25 do that because I think, in fairness, there is a provision

1 for that regulation which requires or provides for the
2 Notice of Appearance that there is room for granting relief,
3 if there is not literal compliance. I mean, he
4 substantively has complied, certainly, with the Notice of
5 Appearance requirement. So I wouldn't -- I'd want to
6 consider this document for that purposes.

7 For the other purposes, I, you know, certainly,
8 your points are all well taken. I mean for any variety of
9 reasons this is not in the form for a motion for
10 intervention, and as far as venue is concerned, only the
11 Commission can change the venue since the Commission has set
12 the venue in Washington, and there is a provision in the
13 rules for that that -- I think it's 1.253 -- that there's
14 nothing that I can do to move it out of Washington anyway.
15 So -- unless the Commission decides otherwise.

16 So the relief that you're asking for with respect
17 to this document is granted. Is there anything further on
18 this one?

19 MR. SHOOK: Not on this one, Your Honor.

20 JUDGE SIPPPEL: All right, this one being, for the
21 record purposes, it's a document again that's entitled
22 "Appearance Statement: Motion for Inclusion of Additional
23 Affected Party and Motion for Change of Venue." It is
24 addressed to the Commission. It is signed by Joseph Frank
25 Ptak, and it was received in the Secretary's office,

1 according to the stamp on my copy, on May 7, 1998.

2 Okay, do you have a next one to talk about?

3 MR. SHOOK: Yes, Your Honor. And I guess in a way
4 it's backtracking, but this is a document that bears a
5 Commission date stamp of April 24, 1998. And I believe it
6 is the document that's referenced in your Order FCC 98M-52
7 released April 29, 1998. It's a number of motions,
8 apparently, that were filed at the same time, and I will
9 read through the various titles to make sure that we're
10 talking about the same document.

11 JUDGE SIPPPEL: These are the -- these are all --
12 these are the ones that came in on the legal size paper?

13 MR. SHOOK: Yes, sir.

14 JUDGE SIPPPEL: All right, go ahead.

15 MR. SHOOK: All right, the first one is titled "In
16 The Matter of an Order to Show Cause and Notice of
17 Opportunity for Hearing." It appears to consist of five
18 pages. The paragraphs are numbered one through 15, and then
19 there is a resolution portion that has one paragraph, and
20 then, finally, there's a prayer portion. The document is
21 signed by Jeffrey, in quotes, "Zeal," and then the last name
22 Stefanoff identified as the publisher of The Hays County
23 Guardian. And it also is signed by a Joel Dean Simpson, who
24 also identifies himself as "Smokey Joe."

25 Your Honor, as best as the Bureau can determine,

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1 this document purports to be a Notice of Appearance by
2 Messrs. Stefanoff and Simpson, neither of whom are parties
3 in this proceeding. This show cause order was not directed
4 against either of them, and so as far as the Bureau is
5 concerned, Your Honor, this document is a nullity.

6 JUDGE SIPPEL: Um-hmm. I hear you and I agree.
7 Stefanoff and Simpson. It -- yeah, Simpson is the "Smokey
8 Joe." He also identifies himself as being a director and
9 founder of the radio station and that's -- was that Kind
10 Radio of San Marcos? What's the designation before "Kind"?
11 Can you make that out?

12 MR. SHOOK: It's the Mu symbol.

13 JUDGE SIPPEL: Yes. Good. So for purposes of
14 this case, the document that you have just described is
15 stricken and will not be given further consideration.

16 MR. SHOOK: All right, next in this package is a
17 document entitled "Motion for Discovery." It, too, is
18 signed by Jeffrey "Zeal" Stefanoff. The Bureau would
19 request that this document be dismissed.

20 JUDGE SIPPEL: Very well. Stricken and dismissed.
21 That'll be the ruling.

22 MR. SHOOK: The next is a Motion for Change of
23 Venue signed by Jeffrey "Zeal" Stefanoff. The Bureau would
24 request dismissal of this motion.

25 JUDGE SIPPEL: Stricken and dismissed. Granted.

1 MR. SHOOK: And then thereafter, there appear to
2 be a number of attachments that apparently were letters that
3 were sent by Mr. Stefanoff and/or Mr. Ptak to the
4 Commission, and I suppose they're designed, you know, just
5 for our information but apparently have no particular impact
6 on any of the motions. And to the extent, you know, that
7 there's any question about it, that they should also be
8 dismissed.

9 JUDGE SIPPEL: Yes. Well, they do -- that's true,
10 they will -- granted. Your motion's granted. They go the
11 same way as the pleadings to which they're a part of. I
12 have only one -- I mean all of these papers, of course, do
13 stay in the record. When I say they're stricken, I mean
14 they're stricken from consideration and dismissed from the
15 case. I am saying that for the benefit of the Secretary's
16 office on the record here.

17 There seems to be -- I don't want to go down and
18 parse the letters, but maybe you have enough. In looking at
19 them yesterday, it seems to me that what he's asking for in
20 some point, way, shape or form in here is a waiver
21 consideration for the licensing requirements. And I want to
22 just present that to you, and you don't have to give me your
23 definitive answer to this, but is there an issue here in
24 which -- or is there a waiver issue here -- not a -- a
25 request for a waiver issue at this stage of the case?

1 MR. SHOOK: Your Honor, at this point it would be
2 the Bureau's position that any such waiver request was not
3 properly filed, and it's, therefore, a nullity.

4 JUDGE SIPPEL: Okay. But does that meet the test
5 if there's a cease and desist order that's issued in the
6 face of even an improperly filed or improperly submitted
7 request for a waiver, and that cease and desist order is
8 going to be sought to be enforced in district court? Is
9 that going to be -- is that a problem? I mean do you -- is
10 that something that has to be thought about here?

11 Again, you don't have to give me a definitive
12 answer here today, but I'm going to maybe just take that
13 back and think about it a little bit. Maybe there's a way
14 of framing the issue in such a way that it can be disposed
15 of or at least that Mr. Ptak can be on notice that, you
16 know, that it is a matter that will be considered in the
17 context of issuing the cease and desist order.

18 MR. SHOOK: Your Honor, we really believe that
19 it's outside the context of this proceeding.

20 JUDGE SIPPEL: All right. I don't have anything
21 more to go on but what I'm just seeing in the letter. But I
22 have no reason to doubt what you're saying is true, and,
23 certainly, the form that it's presented is clearly not -- it
24 is not a properly prepared petition for waiver in this
25 situation.

1 All right. The documents, then, go along with the
2 pleadings. They are stricken and are not to be considered,
3 at least not at this point.

4 MR. SHOOK: All right. Your Honor, I would next
5 like to go through a variety of motions that bear the date
6 of May 10 and I believe were filed May 15; I am not certain
7 of that filing date, though.

8 JUDGE SIPPEL: Yeah, I have a grouping of May 10
9 documents, but I don't have a file date on these. But let's
10 take them one at a time, and then you can give me your best
11 information as to whether or not they have been filed.

12 In fact, if I can ask you to back up one, there is
13 a document that came to me that -- on the 8th of May, which
14 is two days prior to this package that came in on the 10th
15 -- and this document is entitled, at least the facing
16 pleading on this is "Motion to Dismiss, Show Cause Hearing,
17 and Any Indictment: Unconstitutionality of Section 301." It
18 just seems to be, from a time sequence, it seems to have
19 come in before the May 10th documents.

20 MR. SHOOK: All right, Your Honor, I have that
21 document plus, I believe, two others that are of similar
22 vein. My documents all reflect in the beginning -- well,
23 why don't I read them to you one by one, the title and --

24 JUDGE SIPPEL: I think I know what you're
25 referring to, but go ahead.

1 MR. SHOOK: All right. The document I believe you
2 were referring to, "Motion to Dismiss, Show Cause Hearing,
3 and Any Indictment: Unconstitutionality of Section 301," and
4 then it then indicates that it was signed on the 10th of
5 May, both on the first page, on the last page of the
6 pleading, and on the Certificate of Service page.

7 JUDGE SIPPEL: I see it. You're right. You're
8 right. I don't know why we had it received in our office on
9 the 8th of May. Well, maybe that was our error. And did
10 you want to address these as a group? I know there's two
11 others, the APA and then there's the federal records.

12 MR. SHOOK: Well, Your Honor, in the first
13 instance, as far as the unconstitutionality of Section 301
14 is concerned, it's the Bureau's view that this proceeding
15 and this agency are governed by the Communications Act, one
16 provision of which is Section 301; and, insofar as we're
17 concerned, that provision is constitutional until ruled
18 otherwise in this -- you know, this court and this agency,
19 you know, do not have the authority to rule on any such
20 motion.

21 For purposes of our proceeding, we have to presume
22 that the statute and that section is constitutional.

23 JUDGE SIPPEL: You're right. You're absolutely
24 right. So that's really not within the purview of this
25 proceeding, notwithstanding the fact that I'm not going to

1 lose any sleep at night worrying about whether there's an
2 unconstitutional issue with respect to Section 301.

3 So you're okay on that one. I don't know, how do
4 you want me to rule on that? Is your motion to -- are you
5 just, you're just opposing the motion?

6 MR. SHOOK: Well, Your Honor, we would ask that it
7 be dismissed as not being followed in the proper form.

8 JUDGE SIPPEL: Dismissed for more consideration,
9 okay. I'll grant your motion for dismissing it. Okay.
10 Now, did you want to then take the others that are of a
11 similar vein? I say "similar," I mean these are the ones
12 that are packaged as an APA, under the APA, Administrative
13 Procedure Act, and then the one under the -- is this the
14 Public Records Act?

15 MR. SHOOK: Yes, sir.

16 JUDGE SIPPEL: Go ahead.

17 MR. SHOOK: Your Honor, our position would
18 basically be the same on these two in the sense that this
19 proceeding has to be presumed to be in accordance with both
20 the APA and the Paperwork Reduction Act; and that, to the
21 extent that Mr. Ptak wishes to make any arguments along
22 those lines, he again is in the -- he is not in the proper
23 form.

24 JUDGE SIPPEL: Check there. I'll grant your
25 motion to dismiss the pleadings as being inappropriate for

1 determination here.

2 I've got a handful of more, less -- certainly,
3 less heftier motions on this. Do you have these, too? Do
4 you want to go down those?

5 MR. SHOOK: I believe so. Just take them one by
6 one and to the extent that, you know, we have one that you
7 don't and vice versa, we can exchange copies.

8 JUDGE SIPPEL: Fair enough. Fair enough.

9 MR. SHOOK: All right, one that I have is styled
10 "Motion to Extend All Filing Dates," and it bears a date of
11 May 10.

12 JUDGE SIPPEL: I have that.

13 MR. SHOOK: I am not certain of a filing date.
14 It's my understanding that these documents were filed by
15 members of our staff on or around the 15th of May, so at
16 least, I guess, for purposes of discussion we could, you
17 know, assume that that was done.

18 JUDGE SIPPEL: Sure, certainly. I have that. I
19 do have his paper, and he's asking for what?

20 MR. SHOOK: At least 90 days, and it's signed by
21 Joe Ptak and Jeffrey "Zeal" Stefanoff. And underneath it
22 reflects Joe Ptak, Jeffrey "Zeal" Stefanoff, and The Hays
23 County Guardian, et al.

24 Your Honor, it's perhaps a bit ironic, but
25 considering the amount of paper which Mr. Ptak and his

1 friends have managed to file within such a short period of
2 time, it seems to us that Mr. Ptak and his friends can find
3 us, can find the courthouse, and can raise any matter that
4 they can think of whether pertinent or not within the time
5 set by this court so that there's no reason that the Bureau
6 is aware of to grant any such extension as requested by Mr.
7 Ptak.

8 JUDGE SIPPEL: All right. I'm going to deny the
9 motion on the grounds that there hasn't been a basis given,
10 really, for the relief requested. And, in addition to that,
11 on the assignment order from the chief judge to myself -- I
12 mean, it's made clear to all the parties that they're
13 responsible for knowing what the rules say. So that's
14 denied.

15 Okay, you have another one?

16 MR. SHOOK: Yes, sir. I have the one -- now, this
17 document is similar in the sense of the relief that's
18 requested. It's entitled "The Motion for Continuance." It
19 also bears a May 10 date, but unlike the motion to extend
20 all filing dates, this motion does have a certificate of
21 service on it.

22 JUDGE SIPPEL: Yes, I do have that, and that's
23 addressed to myself and to Mr. Goldstein -- I mean the
24 certificate of service is. All right, well, you're -- I
25 take it you're opposing the Motion for Continuance.