

TRANSCRIPT OF PROCEEDINGS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of:

Patrick Sullivan
(Assignor)

and

Lake Broadcasting, Inc.
(Assignee)

For Commission Consent to the License of FM
Translator Station W238CE, Montgomery,
Alabama

EB Docket No. 14-82

FRN: 0003749041,
0006119796,
0006149843,
0017196064

Facility ID No. 146162

File No. BALFT-2012-0523ABY

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Before the
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Washington, D.C. 20554

FCC 16M-16

In the Matter of	:	EB Docket No. 14-82
	:	
PATRICK SULLIVAN	:	FRN: 0003749041,
(Assignor)	:	0006119796,
	:	0006149843,
and	:	0017196064
	:	
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Translator Station W238CE,	:	
Montgomery, Alabama	:	
	:	

Volume II

Wednesday,
May 4, 2016

Courtroom A
Room TW-A363
445 12th Street, SW
Washington, D.C.

The above-entitled matter came on for pre-hearing conference, pursuant to notice, at 11:00 a.m.

BEFORE: THE HONORABLE RICHARD L. SIPPEL,
Chief Administrative Law Judge

APPEARANCES:On Behalf of Lake Broadcasting, Inc.:

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On Behalf of the Federal Communications
Commission Enforcement Bureau:

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GARY OSHINSKY, ESQ.
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P-R-O-C-E-E-D-I-N-G-S

(11:04 a.m.)

1
2
3 ADMIN. JUDGE SIPPEL: This is a pre-hearing
4 conference, which I called on short notice. It's case Patrick
5 Sullivan and Lake Broadcasting, their applications, and it's
6 MB Docket Number 14-82.

7 What I have here on my notes, and I think I'm right
8 about this, basically, what we have here is a scheduling
9 disagreement. The depositions are to be taken in St. Louis.

10 Is that right? Depositions -- I'm addressing you
11 now. I'm addressing you, Mr. Jacobs. The depositions about
12 -- I should take appearances here, right?

13 MR. JACOBS: Yes.

14 ADMIN. JUDGE SIPPEL: Let's do that.

15 MR. OSHINSKY: Your Honor --

16 ADMIN. JUDGE SIPPEL: Mr. Oshinsky.

17 MR. OSHINSKY: Gary Oshinsky representing the
18 Enforcement Bureau and Federal Communications Commission.

19 ADMIN. JUDGE SIPPEL: Yes, sir.

20 And, Mr. Kellett.

21 MR. KNOWLES-KELLETT: Bill Knowles-Kellett,
22 representing the Enforcement Bureau.

23 ADMIN. JUDGE SIPPEL: Thank you.

24 And, of course, Mr. Jacobs.

25 MR. JACOBS: Jerold L. Jacobs representing Patrick

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1 Sullivan and Lake Broadcasting.

2 ADMIN. JUDGE SIPPEL: Okay. You look different
3 than when you worked here.

4 (Laughter.)

5 ADMIN. JUDGE SIPPEL: I hope I'm not saying the
6 same thing about myself. It's okay. It's all right. For the
7 better. For the better.

8 Now, their deposition is set for May 17th and 18th
9 in St. Louis. That was my urgency. Why can't those
10 depositions be taken?

11 MR. OSHINSKY: Your Honor, we -- because of the
12 motion that Mr. Jacobs filed, we felt that the time -- you
13 know, for the government to arrange for travel, locate a place
14 to take the depositions, so forth and so on, takes time, and
15 we felt we would clearly not have enough time to do that by
16 the time the court decided Mr. Jacobs' motion, so,
17 unfortunately, we had to delay the --

18 ADMIN. JUDGE SIPPEL: It's going to have to be
19 delayed anyway.

20 MR. OSHINSKY: Yes.

21 ADMIN. JUDGE SIPPEL: Okay. Have you agreed on any
22 kind of alternative dates?

23 MR. OSHINSKY: No, Your Honor. I think we're --
24 we -- Mr. Jacobs at least would need the decision of, Your
25 Honor, about his motion.

1 ADMIN. JUDGE SIPPEL: Okay. Well -- okay. Thank
2 you very much.

3 Mr. Jacobs, actually, it's your decision. If you
4 don't want to depose the witness, you don't have to. That
5 doesn't mean they're not going to appear. Well, let's start
6 with one at a time, with Dr. Weigl, for example.

7 If you don't take -- I'm giving you the opportunity
8 to take her deposition. You have it under the rules. You've
9 waived the right to take her deposition, so she may -- she may
10 -- I'm not going rule on whether she's going to testify, but
11 she certainly is, is -- in all likelihood would be able to
12 testify.

13 MR. JACOBS: Our problem is that her testimony
14 would presumably be based on her sex offender evaluation
15 report dated -- well --

16 ADMIN. JUDGE SIPPEL: Well, that's the one -- the
17 one that's in, that was prepared in March.

18 MR. JACOBS: Right. Right. And we find that
19 document to be incomplete, biased, scurrilous.

20 ADMIN. JUDGE SIPPEL: But that's not her testimony.
21 She's going to testify. You can use that to cross-examine
22 her, which I would have thought you would be doing in a
23 deposition, but that's not her testimony.

24 Are we all on the same page here?

25 MR. JACOBS: Well, we assume that the Bureau would

1 introduce that report as an exhibit.

2 ADMIN. JUDGE SIPPEL: No. I'm going to stop you
3 right there. The Bureau has tendered that to you as being the
4 statement of the summary of her testimony, which she's
5 entitled to -- which is required under the rules. And -- but
6 when they come to the hearing, they're going to provide a, the
7 actual testimony, you know, the prepared testimony, which
8 hasn't been prepared yet, and -- I assume, and then you're
9 going to have an opportunity to cross-examine on that
10 testimony.

11 And the whole idea of giving the statement up-front
12 is so you're not, you're not ambushed by the, by the
13 testimony. You're prepared to cross-examine, completely
14 prepared to cross-examine.

15 Now, there's nothing that you cited or that has
16 come to my attention that varies from that procedure. They've
17 given you -- they've given you the summary. You don't like
18 the summary, you went out and got an evaluation of it, you
19 don't like the evaluation or you don't want to, you want to
20 protect the evaluation, those are all sub issues.

21 The point being that they've done what they're
22 required to do, the Bureau, and now it's up to you to just say
23 yea or nay to the deposition. There's nothing more to decide.

24 MR. JACOBS: Well, we're very dismayed by the
25 report and what is past is prolonged perhaps.

1 ADMIN. JUDGE SIPPEL: Believe me, I'm trying to,
2 again, emphasize this to you, sir. This is not a report.
3 This is, this is a report -- it is on the report. It is not
4 in evidence and it doesn't -- right now, it has no
5 significance, except it's giving you notice as to what she's
6 done to prepare for her testimony.

7 And you're criticizing it 18 ways to Sunday, and,
8 and then you don't want the opportunity to cross-examine her
9 on what you find is wrong with it because it looks like that
10 -- if that's the way she's going to testify, you, sir, have
11 to -- what you consider to be serious problems, so why not try
12 and lock her in in a deposition and see what happens because
13 you can't do anything else.

14 MR. JACOBS: Well, our first choice, preference,
15 would be to have her disqualified.

16 ADMIN. JUDGE SIPPEL: No, there's no such thing as
17 having somebody disqualified. She might not qualify as a
18 witness, as an expert rather, but -- and if she turns out to
19 be a liar, I will disqualify her post-haste. I've done that
20 in a case before. Not only throw him out of the case, I threw
21 him out of the building.

22 But there's nothing like that here, here yet. I
23 mean, you know, experts exaggerate all over the place. And
24 certainly you're going to disagree with the expert. I would
25 expect that.

1 And don't you have your own expert?

2 MR. JACOBS: Well, the -- yes, the people who
3 prepared the counter-report.

4 ADMIN. JUDGE SIPPEL: But are they going to come --
5 after the government puts this case on, is that, is that your
6 source or is that your, your expert authority or --

7 MR. JACOBS: Yes.

8 ADMIN. JUDGE SIPPEL: And they're going to come in
9 and testify against what the government puts on.

10 MR. JACOBS: Well, as I say, our first step was to
11 try to disqualify Dr. Weitzl. If we cannot do that --

12 ADMIN. JUDGE SIPPEL: Certainly not at this stage
13 of this case. The only thing to disqualify her if she took
14 the stand and lied. If she fools me, that's her problem, but
15 I'm assuming that I'd be able to detect something is,
16 something is rotten in the state of Denmark.

17 And, and so I certainly would get a lot of help
18 doing that from your side of the table, but I'm just not
19 expecting that right now, and what happens, happens. So right
20 now, this just seems to be wasting a lot of time when you
21 could -- somebody should be out doing something to prepare for
22 this case. And if you don't want to prepare, if that's what
23 you don't want to do, let us know so we can move on to the
24 next space.

25 MR. JACOBS: Our fallback position, as strange as

1 it might seem, is to file a motion for summary decision. We
2 feel that there already is in the record through the discovery
3 phase most of the elements of our presentation. We would, of
4 course, add a further direct exhibit which would summarize Mr.
5 Rice's activities since he was released from prison, very
6 little of which has come to light here, and ask the Judge to
7 grant summary decision.

8 I've got to say that, you know, it was almost
9 exactly two years ago, Your Honor, that we had our first pre-
10 hearing conference. And at that time, it was June 24, 2014.
11 At that time, it appeared that this was going to be a very
12 swift proceeding. It was talked about having discovery taking
13 six or seven months or less, and then going right into the
14 hearing. It's turned out to be much more difficult.

15 Frankly, some of the concerns that I raised at that
16 pre-hearing conference are still with us, which is what is the
17 proper scope of the issues on rehabilitation, the time frame
18 that we're going to look at, the extent to which the hearing
19 designation order seems to foreclose reexamination of the past
20 of the criminal conduct, but every time we turn around, such
21 as in Dr. Weitl's report and Ms. Gremminger's statement, we're
22 asked to go back -- not only go back before Mr. Rice was
23 incarcerated, but even to consider allegations concerning
24 misconduct, which are completely hearsay, unsubstantiated, and
25 never part of the record in this proceeding. And to our way

1 of thinking, none of that should be in this record at all.
2 It was supposed --

3 ADMIN. JUDGE SIPPEL: Where is none of this in the
4 record?

5 MR. JACOBS: Not technically, but, I mean, and
6 that's why, for instance -- well, frankly, I don't know when
7 you file a motion in the hearing proceeding and there are
8 attachments to it, I guess, it's not part of the hearing
9 transcript, but I assume it's part of the overall record of
10 the, of the case, and that's why --

11 ADMIN. JUDGE SIPPEL: Well, did you file
12 electronically?

13 MR. JACOBS: Yes.

14 ADMIN. JUDGE SIPPEL: So that's going to be in that
15 machine someplace. Whatever you filed is going to be in the
16 machine.

17 MR. JACOBS: And that's why we had asked that in
18 this motion that the Bureau would please provide to you in
19 camera, as they did, copies of these two reports so that you
20 could look at them without them being electronically included
21 in the, in the docket.

22 ADMIN. JUDGE SIPPEL: Well, back up one minute.
23 I believe they are right, in the electronic system now. If
24 somebody from the New York Times was doing a big spread on
25 this piece, which I doubt is happening, they would be able to

1 retrieve it.

2 MR. JACOBS: Well, there's a limit to --

3 ADMIN. JUDGE SIPPEL: Am I right about that?
4 Please correct me if I'm wrong.

5 MR. OSHINSKY: Your Honor, we have not -- we
6 specifically did not file these in the case docket because Mr.
7 Jacobs asked us not to. And we provided them to you and --

8 ADMIN. JUDGE SIPPEL: So these are in camera as far
9 as I'm concerned.

10 MR. OSHINSKY: Yes, they're in camera.

11 ADMIN. JUDGE SIPPEL: Thank you. Okay, thank you.
12 That's -- that erases my misunderstanding.

13 MR. JACOBS: I wanted to avoid any questions or
14 things being filed under seal or whatever --

15 ADMIN. JUDGE SIPPEL: I hear you. No, I'm fine
16 with that so far.

17 MR. JACOBS: So we have been expecting that this
18 hearing would principally delve into our client's conduct or
19 misconduct since he was released from prison in December 1999.
20 As our expert's summary indicated, more than half of Dr.
21 Weitl's report from March deals with matters before then, and,
22 in fact, as I said earlier, some things that are hearsay,
23 unsubstantiated, and perhaps fabrications.

24 ADMIN. JUDGE SIPPEL: Now, don't go there unless
25 you got hard evidence.

1 MR. JACOBS: Well, I mean, what we have, to be very
2 specific, on more than one occasion in Dr. Weitzl's report, she
3 refers to the accusation that our client abused many, many,
4 if not hundreds, of adolescents prior to his being arrested.

5 ADMIN. JUDGE SIPPEL: Well, as a matter of evidence
6 that can be taken care of. You know, I mean, it's -- that's
7 -- as I said, experts tend to exaggerate.

8 MR. JACOBS: So --

9 ADMIN. JUDGE SIPPEL: That's -- I'm not -- I -- I
10 mean, you should be concerned about that, but if I'm hearing
11 this -- if it is the way I'm hearing it, you'll get the
12 protection you need and your client will from me, but I don't
13 want to go into this. I don't want to parse into this.

14 MR. JACOBS: Sure.

15 ADMIN. JUDGE SIPPEL: Those are just -- I mean,
16 your -- your stating was, to my ears, would almost be
17 inflammatory conclusory statements, which I want to just
18 suggest that you should be very careful of, and I don't think
19 it's necessary here anyway for what we're getting accomplished
20 here.

21 What you have -- you already have the in camera
22 protection, all right?

23 MR. JACOBS: Yes.

24 ADMIN. JUDGE SIPPEL: Yes. I can't hear -- they
25 can't hear that yes.

1 MR. JACOBS: Yes.

2 ADMIN. JUDGE SIPPEL: And, so there's really
3 nothing else to discuss. I mean, I know what these -- I know
4 exactly what you're trying -- not what you're trying to say,
5 what you are saying, but I know the significance of everything
6 you've said so far.

7 And, you know, there's going to be a day when, of
8 reckoning for those, for that argument, but today isn't the
9 day. I want to know when you want to take the deposition.

10 If you want to sit down with Dr. Weitzl and say,
11 "Look, Dr. Weitzl, forget about what you've written, you might
12 as well have written -- you might as well have given me the
13 blueprints for the, for the hellcat plane in World War II, you
14 know, what you wrote there is a bunch of nonsense, why can't
15 you show me pro or con as far as rehabilitation is concerned?"
16 and, you know, see what, see what kind of an answer you get.

17 I mean, maybe that's a small matter to go all the
18 way to St. Louis for, but -- think about what I'm saying.

19 MR. JACOBS: Yes. Well, right now, I mean, in her
20 21-page report, she devotes a total of one paragraph, on page
21 15 over to 16, which is called, "Current adjustment." That
22 is her entire description of Mr. Rice's supposed
23 rehabilitation efforts.

24 It seems to me that when she spent an hour and a
25 half, she varies whether she says it's an hour and a half or

1 two and a half hours examining him, she could have come up
2 with more and analyzed it.

3 ADMIN. JUDGE SIPPEL: You know, if she did come up
4 with more and analyzed it and came up with the conclusions
5 that you -- you might have something to be concerned about.
6 I'm looking at this -- from what you're telling me, I'm not
7 making any bottom-line conclusions here, but you seem to be
8 saying that you've got a witness who doesn't know what she's
9 talking about, and you'll be the one to go down, out to St.
10 Louis and help her perfect her testimony, or I don't know what
11 you want to do.

12 I mean, what this -- ever been a witness would take
13 a statement like that, and he would have -- he would -- he
14 would go to Haiti with it. I just don't understand.

15 If you guys -- you got a witness that you think is,
16 is off, off the reservation and doesn't know what she's
17 talking about, how could you -- how could you be in a better
18 position than that? If, you know, taking, taking what you're
19 saying from your side of the table, I'm not drawing any
20 conclusions on it, but that's what I'm hearing. Think about
21 it.

22 MR. JACOBS: Well, I will have to bring this back
23 to my client --

24 ADMIN. JUDGE SIPPEL: Absolutely.

25 MR. JACOBS: -- because obviously I'm here on his

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1 behalf --

2 ADMIN. JUDGE SIPPEL: Absolutely.

3 MR. JACOBS: -- and --

4 ADMIN. JUDGE SIPPEL: Get him a copy of the
5 transcript.

6 MR. JACOBS: -- expressing as decorously as I can,
7 his outrage at --

8 ADMIN. JUDGE SIPPEL: Show him the transcript.
9 Maybe we should have had him in court today, so he could hear
10 this. I mean, he's not getting hurt in the sense, in the
11 sense of this case. Of course, he's getting hurt. His
12 feeling getting hurt.

13 And, I mean, if this was being done to a client of
14 mine or a relative of mine, I'd be incensed, but, you know,
15 that's all it is is words. It's got nothing to do with her
16 conclusions to be reached in this case.

17 And you're properly arguing relevance, and that's
18 a perfectly legitimate argument to make, but, again, all we're
19 doing now is just going out and getting information. That's
20 all we're doing.

21 And if you want the opportunity to get that
22 information from the witness or you're satisfied with leaving
23 it the way it is, all well and good. Makes it less expensive
24 to the Bureau who's studiously concerned about the conference
25 of the agency and the government, but it is what it is.

1 That's my view of it.

2 Now, the other thing is it's a summary decision.
3 I mean, that's, that's a bit of a stretch. You know, if I did
4 that -- you know what the Commission did to me in Titus. Can
5 you imagine what they'd do to me if I gave you summary
6 decision? Oh, I don't want to think about that, and it's not
7 going to work, so let's forget about that.

8 MR. JACOBS: Well, I'm glad that you mentioned
9 Titus --

10 ADMIN. JUDGE SIPPEL: Yes, sir.

11 MR. JACOBS: -- because that's another thing that
12 has worried my clients since the beginning of this proceeding.
13 And it raised its ugly head as recently as the Bureau's
14 opposition to our motion where it is cited and almost -- well,
15 as they, as they say there, page five, "Under the Commission's
16 direction in Titus, the presiding Judge...", in this case --

17 ADMIN. JUDGE SIPPEL: That'd be me.

18 MR. JACOBS: -- "...should afford significant
19 deference to the testimony and opinions of both Dr. Weitzl and
20 Ms. Gremminger." I don't think Titus is controlling in this
21 case at all. It's a very different case. I know it involves
22 a sexual offender who's the licensee. That's about as, the
23 only similarity, but we are constantly being asked to draw
24 analogies.

25 Ms. Gremminger is nothing like the chief of the

1 Seattle Police Department. In fact, her role as a parole
2 officer, we think, is being exaggerated. And as you say, in
3 a deposition, we might be able to get to the bottom of some
4 of this.

5 My client says, "She was never my parole officer
6 and I never heard of her until she gave a recent report. I
7 don't recall even having an interview with her while in prison
8 or on parole." Now, --

9 ADMIN. JUDGE SIPPEL: You did or did not have an
10 interview?

11 MR. JACOBS: Did not. He --

12 ADMIN. JUDGE SIPPEL: Okay, go ahead.

13 MR. JACOBS: Now, admittedly, these events are --
14 oh, we're talking about things that are 16 years old or more,
15 so maybe his recollection is, is fuzzy, and that can be
16 examined in deposition, but we have Ms. --

17 ADMIN. JUDGE SIPPEL: You know, I'm his age or
18 maybe even a bit more, and if this had happened to me, this,
19 this set of facts where a witness, a prospective witness was
20 presenting herself as being able to say these things about me
21 in a hearing, I think I would be able to remember whether or
22 not I ever spoke to this woman before, I think I would.

23 MR. JACOBS: Yes.

24 ADMIN. JUDGE SIPPEL: Yes. I can remember kids,
25 you know, when I got tagged in a game and it was a false, it

1 was a bad call. I mean, this is something that just -- unless
2 the man has got some kind of a problem. If he's got a medical
3 problem, that's something different.

4 I don't want to get that in detail, but if he's
5 unable to recall, there are people who can do -- you know,
6 that's a legitimate physical ailment if he has it, you know.

7 MR. JACOBS: I don't think he has any such ailment
8 nor is there any indication in anything I've seen so far in
9 this case other than Ms. Gremminger's own statement that she
10 had any parole role, vis-a-vis Ms. Rice. The -- the materials
11 that we have received includes a lot of stuff that's not part
12 of the record of the police reports and parole reports, a
13 number of names of parole officers, none of which is Tammy
14 Gremminger.

15 ADMIN. JUDGE SIPPEL: Does he remember who the
16 parole officer was? You don't have to tell me the names, but
17 does he have a recollection of who this parole officer has
18 been?

19 MR. JACOBS: One or more, yes.

20 ADMIN. JUDGE SIPPEL: And does he, does he recall
21 who he talked to in prison from the prison, from the staff
22 side?

23 MR. JACOBS: I think he does.

24 ADMIN. JUDGE SIPPEL: To any degree. Well, then
25 that's a, that's a different issue for a different day. There

1 was something in this, in this Smikle case that you cited that
2 -- of course, the immunity of the witness, that's interesting,
3 but basically -- let's see.

4 Well, I've either lost sight of it or something is
5 screwy here. Oh, here it is. This is the beginning of the
6 allegation.

7 "Plaintiff has obtained -- pursuant to an Illinois
8 Act that is a provision of the Illinois law, and the Act
9 mandates to reexamine every 12 months, etc. Pursuant to this
10 statute," okay, "Pursuant to this statute, the Federal..." --
11 I'm reading it this way. This is on page two. We have page
12 two. You may have a different page.

13 "Pursuant to this statute, the Department of Human
14 Services is required to submit a written report to the State
15 Court regarding the detainee's mental condition."

16 Now, is that what you were, you were arguing about
17 in this case that his mental condition is not an issue in this
18 case? I'm not -- obviously, I'm switching from, from that
19 case to, to the current case. I'm trying to compare Smikle
20 with Mr. Rice.

21 MR. JACOBS: Well, Your Honor, you previously ruled
22 that when I attempted to narrow the scope of Dr. Weitzl's
23 examination that you would not exclude a discussion of Mr.
24 Rice's mental state because you believed it was relevant to
25 the overall determination of whether he is rehabilitated.

1 ADMIN. JUDGE SIPPEL: Well, I think I'm still
2 correct on that. These cases were -- I know, I basically put
3 these cases in the closet for a while because I don't think
4 there was enough circumstantial, circumstantial information
5 for me to appreciate the significance of those allegations in
6 these cases.

7 Now we're getting into a different context. I'm
8 not going to parse through those cases right now for the
9 purposes of what we're talking about here, but since you were
10 very adamant about the significance of that case, I did pull
11 it and looked at it.

12 And it's interesting in the sense that this,
13 determining the mental condition of a person who is -- of
14 course, he's incarcerated. Our man is not -- your client is
15 not incarcerated, but the mental condition in a sense of how
16 it might impact on his ability to, to be rehabilitated, I
17 mean, there is, there is relevance to that I would think.

18 Somebody could -- you're going to need an expert
19 that's going to tell me that I'm fishing with the wrong pole,
20 but, you know, that's -- isn't that right? I mean, I --

21 MR. JACOBS: I hear what --

22 ADMIN. JUDGE SIPPEL: But wait a minute. Let me
23 finish my point. I agree with you that this should not go
24 back and dig up every spec of dirt and worms on this guy's
25 background.

1 The only thing I did was say, "Look, your -- my
2 opinion is as an expert psychologist that he's mentally
3 capable of representing, or he knows what he's doing, he's
4 mentally, he's mentally fine for our purposes and he's
5 rehabilitated because of A, B, C, D, and E or he's not
6 rehabilitated because of X, Y, Z."

7 That's the kind of testimony I'm kind of thinking
8 -- I'm hoping that we get. I know he's a bad -- I mean, I
9 know he has a bad history or you want to call it that. He has
10 not acted appropriately in his life, okay, neither did Denny
11 Castor.

12 I don't care, you know. I don't care because right
13 now, we have another question, but I got to be careful. I got
14 to let the Bureau do its work because the Commission is going
15 to want to know what the Bureau thinks about this case too.
16 I hope that's sufficient, and I don't want to cut you out of
17 this.

18 MR. OSHINSKY: No, Your Honor. That's all right.

19 MR. JACOBS: Well, I think the, the Weitzl report
20 reveals certain biases of Dr. Weitzl in terms of declaring
21 certain problems to be lifelong, cannot be escaped from, and
22 at the appropriate time, we would dispute those things.

23 In the context of this informal conference, if you
24 will --

25 ADMIN. JUDGE SIPPEL: No, this is a conference.

1 This is a pre-hearing conference.

2 MR. JACOBS: Right, not a trial.

3 ADMIN. JUDGE SIPPEL: No, we're in hearing. No,
4 we're not considering evidence in the ultimate sense. This
5 is not evidence that's going to support proposed findings.
6 That comes later.

7 The way you analyze it, if you had that in proposed
8 findings, you'd be a pretty happy guy, I would think. Again,
9 I'm looking at it from your standpoint.

10 MR. JACOBS: Well, I'm trying to, you know, as --
11 I used to be an officer of this court as it were, and I'm
12 trying to --

13 ADMIN. JUDGE SIPPEL: I still consider you that.

14 MR. JACOBS: Thank you. I --

15 ADMIN. JUDGE SIPPEL: You don't lose any
16 jurisdiction because you left here to go make money.

17 MR. JACOBS: I'm trying to edify all of us.

18 ADMIN. JUDGE SIPPEL: I hear that.

19 MR. JACOBS: And what I've done is I brought with
20 me a learned article on another of Dr. Weitzl's biases, which
21 seems to be that it doesn't matter how old you are, once a
22 louse, always a louse. This article, which I will pass to the
23 Judge and to the Bureau, is entitled, "High-Risk Sex Offenders
24 May Not Be High-Risk Forever."

25 And probably Dr. Weitzl would disagree with that,

1 but I would like everyone to at least consider this as we move
2 along because that's another of the problems that we have in
3 this case.

4 You know, this man, Michael S. Rice, will turn 75
5 on June 30, and here we're talking about him as if he's a
6 boogeyman who is going to run out into the streets or whatever
7 and attack teenage boys, and it just boggles the mind that
8 anyone would think that.

9 ADMIN. JUDGE SIPPEL: Well, it's -- but isn't it
10 sort of a boggle? But, again, I -- look at Denny Castor.

11 MR. JACOBS: But he's being accused of things that
12 happened decades ago.

13 ADMIN. JUDGE SIPPEL: Yes, but look at what the
14 Judge did in sentencing. That's what -- I mean, the Judge
15 said, "Look." You know, I'm not going to say what the Judge
16 said.

17 MR. JACOBS: Yes. No.

18 ADMIN. JUDGE SIPPEL: But he's going away for 15
19 months or something like that. He was -- the Bureau that
20 prosecuted him only wanted to send him away for six months.
21 This stuff has a flavor to it that's tough. I -- I mean,
22 believe me, I'm not, I'm not going to -- I'm going to get off
23 my horse -- let me get off my horse here.

24 We're talking about evidence, and you got to make
25 that decision, sir. I'd be interested in seeing what you

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1 have, --

2 MR. JACOBS: Yes.

3 ADMIN. JUDGE SIPPEL: -- but the -- like I said,
4 it's not in evidence, it's for ratification.

5 MR. JACOBS: Right.

6 ADMIN. JUDGE SIPPEL: I might pass it along to the
7 Clintons if that's necessary. I don't think so. May Not Be
8 High-Risk Forever. And --

9 MR. JACOBS: And I have an extra, another copy if
10 anyone else --

11 ADMIN. JUDGE SIPPEL: Oh, yes, please, to my, to
12 my, my advisor, --

13 MR. JACOBS: Thank you.

14 ADMIN. JUDGE SIPPEL: -- Rachel --

15 Now, so you, you let me know. I'll get an order
16 out on this today -- tomorrow. Let me know within ten days
17 what you intend to do. That is if you intend to take the
18 deposition, go forward with the deposition, that'll give you
19 time to work out dates with the Bureau counsel, and Bureau
20 counsel can figure out the time lag that they need in order
21 to get the money to go, and, so I just know what's happening.
22 That's all I want to know.

23 If you want to take the deposition, fine. If you
24 don't -- but I want to know -- I want to know also in writing
25 that I don't want to take this deposition or my client does

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