In the United States District Court
For the District of Colorado

Civil Action No. 14-cv-00245-MSK-MJW

Reverend Matt Hale,
Plaintiff,

v.

Federal Bureau of Prisons,
Defendant.

Reply in Support of Plaintiff's Motion to Deny Defendant's Costs (Doc. 222)

Though disingenuous and misleading like the rest of its substantive filings in this case, the Defendant's response to Hale's motion (Doc. 231) failed to rebut in any way the several good reasons stated therein for why the Defendant's costs in this case should be denied. Fundamentally, whether costs

should be imposed remains within this Court's sound discretion (Doc. 222 at 2). It is thus not a matter of whether Hale "must pay costs" as the Defendant insinuates (Doc. 231 at 1) but rather whether he should be made to pay those costs. Therefore, Hale replies only to several of the Defendant's specific contentions, contentions made, as always, in an effort to deceive this Court.

First, it is untrue that Hale "had planned from the beginning of this case to take as many as fifteen depositions" (Doc. 231 at 3, note 1). Defense counsel does not know, and cannot know, what Hale "planned" to do. As a matter of fact, Hale wanted to increase the number of allowable depositions to fifteen simply because there had been twelve individual defendants in this case and he thought it conceivable that three additional persons might turn out likewise to have discoverable information. Since there had been twelve individual defendants, it made sense that there be at least twelve depositions

allowed to him, with three added to that total in the event that he learned of others — including expert witnesses — who likewise were in possession of information relevant to this case. A possibility was thus perceived, not "planned." That is all.

Second, if the Defendant did not lie to this Court about Hale's actual address at ADX — thus acting in bad faith during the course of this litigation as Hale has asserted (Doc. 231 at 4) — let the Court ask itself why the Defendant has mailed a copy of every single one of its filings in this case to Hale at P.O. Box 8500, not P.O. Box 8000. The certificates of service thus prove that defense counsel herself did not believe the representations which she and Lt. Kelley made to this Court about Hale's address (citations at Doc. 222 at 20). At a certain point, a lie is just that: a lie. The idea that Hale has not provided "any support for his contention that the BOP [has] acted in bad faith at any point during this

litigation" (Doc. 231 at 4) is thus laughable. The Defendant's bad faith is further shown by the Defendant's recent seizure of all of Hale's Creativity literature from his cell, which is the subject of his pending motion for relief from judgment (see Doc. 229). In sum, the Defendant [redacted] "represents" one thing and does another, quite simply. The bad faith here is thus obvious. Nor does the Defendant's good faith in other respects (Doc. 231 at 2-4) somehow cancel out the bad faith it has shown 1) by lying about Hale's address and 2) by seizing Hale's Creativity literature in contravention of the representations which it had made to this Court. Rather, the lie and the seizure [redacted] demonstrate bad faith here in their own right.

Third, the fact that the Defendant excised the one sentence that defined what Hale meant by the word "conveyance" — and only that sentence from the excerpt which it offered to this Court of the press release — demonstrates the bad faith of the

Defendant to all rational, sapient, and fair-minded people (Doc. 231 at 4). Put another way, if the Defendant were acting in good faith, it would not have felt the need to remove the sentence from Hale's words in the first place. It would have simply quoted his words from the press release and argued as it pleased as to what he "really" meant by his words. Instead, it consciously removed the sentence from his words as if the sentence had never existed. The Defendant made a contention about the press release — that Hale had sought harm to Weisman by virtue of his expressing his hope that one day he would receive his comeuppance for framing him for crimes he did not commit — and then proceeded to support that claim by taking out the very sentence which indicated that the "comeuppance" he was hoping for would be within the law. That too demonstrates the Defendant's bad faith. It is not as if Hale had used the word

"comeuppance" in the press release without providing any idea as to what he meant by the term. Rather, the Defendant took the [redacted] meaning out of what it provided to the Court and that is bad faith on its face.

Fourth, and related to the above, the notion that Hale "is housed at the ADX because he has been convicted of multiple felonies and engaged in dangerous behavior in a less-restrictive prison" (Doc. 231 at 5) is frankly obscene. Indeed, the Defendant's statement is indicative of yet more bad faith on its part, for the fact of the matter is that the entire press release kerfuffle was contrived by the Defendant and its employees in an effort to gain advantage in this lawsuit and nothing more. In other words, the Defendant's employees do not themselves believe that Hale meant any harm with what he said in the press release and they have perjured themselves flagrantly, in their efforts to convince this Court otherwise. (After all, if they did believe that he meant harm, he would have been charged

with a prison infraction to that effect, which did not occur, or he would have been indicted on yet another (phony) "solicitation" charge, which did not occur either.) Hale is at ADX for political reasons, not because he was "convicted of multiple felonies" or "engaged in dangerous behavior." Indeed, his criminal record is on the rather small side compared to that of the vast majority of federal prisoners (three charges) and the so-called "dangerous behavior" that he engaged in, for its part, was the mere writing of a press release, an act which is protected on its face by the First Amendment to the Constitution of the United States. If that is truly "dangerous behavior" to the BOP, thus warranting ADX placement, there are obviously tens of thousands of other prisoners who should be added to the ADX roster; after all, who can deny that there are tens of thousands of prisoners — at a minimum — who have engaged in behavior far more dangerous than the issuance of a

statement to the press? In any event, the bad faith here is the lie that Hale engaged in any "dangerous behavior" with his press release in the first place, a lie which the Defendant sought to buttress by misrepresenting to this Court what he had actually said in the press release. (Why does the Court think the Defendant removed the sentence from his words? Just for the heck of it?) "[T]he BOP's analysis of [Hale's] actions" (Doc. 231 at 4) is itself a lie because it does not itself believe what it has told this Court. If it did, it would not have chosen to remove the sentence defining what Hale meant by the word "comeuppance" from all of its filings in this case. Hale can only thank his lucky stars that he printed out a copy of the press release before the Defendant and its goons threw him into the Hole at Terre Haute for otherwise the sentence which appeared after the word "comeuppance" would have simply disappeared down the

Defendant's Orwellian memory hole, and it would no doubt have come to this Court denying that Hale's statement that he would sue Weisman and file a misconduct complaint against him had ever been in the press release at all. Such people do not deserve a penny, let alone five thousand odd dollars. What they have done to Hale regarding the press release is simply unconscionable.

Fifth, the Defendant's statement that the unencumbered balance in Hale's account as of May 16, 2018 is $955.51 is deeply misleading (Doc. 231 at 4, note 2). That is because he had just received two donations for $300 apiece from unknown benefactors, on May 13th and May 14th respectively, and that is something which he can hardly assume will be repeated in the days, months, and years ahead. (As a matter of fact, his balance is usually around three or four hundred dollars, not a thousand.) In any event, people donate to his trust

fund account for his upkeep, not to support the BOP, and any confiscation of funds from that account would likely dry up the donations made to it accordingly. Nor would Hale in good faith be able to ask people to donate to his account were the BOP to be engaged in the seizure of the money; he has to respect their desire that their money go to him, not the BOP. All of this is thus relevant to the Court's decision. Just saying that Hale has so much money in his trust fund account does not tell the whole story.

Finally, the simple fact of the matter is that there is not enough to eat at ADX without the purchase of commissary and defense counsel's uninformed, unsworn statements insinuating otherwise (Doc. 231 at 6) fail to overcome the sworn statements which Hale makes here and in his motion proper (Doc. 222 at 9). About half of every food tray given to prisoners at ADX is empty and prisoners are compelled to

purchase additional food from the commissary accordingly. The staff at ADX constantly tries to save money by cutting back on the prisoners' food. These are facts whether defense counsel happens to like their assertion or not. Prisoners at ADX are constantly complaining about the lack of food on their food trays; Hale knows that because he is here, shares, and has heard those complaints. Hale also knows from experience — experience garnered from those times when he has not been allowed to purchase commissary at ADX for whatever reason — that yes, he stands to "go hungry" when the food on his trays is his only source, and that is the case whether he eats everything on the tray or not. Thus the Defendant's suggestions to the contrary fail (Doc. 231 at 6). As always, defense counsel lives in a delusional dream world, utterly ignorant of what actually goes on at federal prisons or not caring if she does. Her comments are unsworn, factually unsupported,

and therefore worthless as a matter of law.

For these reasons — as well as the reasons stated in Hale's motion proper — the Defendant's "costs" should be denied. The circumstances here show that it would indeed be more equitable for the Defendant to pay its own costs in this case than for Hale to pay those costs. See again Jorgensen v. Montgomery, 2009 WL 1537958 at *1 (D. Colo. 2009). (Notably, Hale only received Defendant's response to his motion (Doc. 231) on May 25th, nine days after it was filed, and is replying to it as soon as possible accordingly.)

I hereby swear under penalty of perjury pursuant to 28 U.S.C. sec. 1746 that the foregoing is true and correct to the best of my knowledge and belief.

Respectfully sworn and submitted,

Rev. Matt Hale

May 26, 2018

Rev. Matt Hale
#15177-424
U.S.P.-Max.
P.O. Box 8500
Florence, CO 81226-8500

Certificate of Service

I hereby certify that on May 29, 2018 I served the foregoing Reply in Support of Plaintiff's Motion to Deny Defendant's Costs upon the following via U.S. mail, postage fully prepaid:

Susan Prose, Atty. for Defendant
Asst. U.S. Attorney
1801 California Street, Suite 1600
Denver, CO 80202

Rev. Matt Hale, Plaintiff

Reg No. [illegible]
U.S. Penitentiary MAX
P.O. Box 8500
Florence, CO. 81226-8500

Special Mail

Office of the Clerk
United States District Court
901-19th St., Room A105
Denver, CO 80294-3589

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