

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

In re: Special Proceedings

Misc. No. 01-47T

ORDER UNSEALING DOCUMENTS

On May 31, 2001, this Court appointed a Special Prosecutor to determine whether criminal contempt charges should be brought against the individual(s) who apparently violated a protective order entered in the "Plunder Dome" case (the "Protective Order") which prohibited counsel and the parties in that case from disclosing the contents of various surveillance tapes that were being considered by the Grand Jury and were likely to be presented as evidence at trial. The apparent violation of the Protective Order consisted of providing one of those video tapes to James Taricani, a Channel 10 reporter, who caused it to be broadcast during a news program.

On June 28, 2001, this Court entered an order that all documents filed in this matter be sealed unless otherwise directed by the Court. The purpose of the sealing order was to ensure that the activities of the Special Prosecutor in conducting his investigation, like the activities of a grand jury in conducting its investigation, remain confidential, at least until criminal charges were brought or the investigation was concluded. One of the principal purposes of maintaining confidentiality is to prevent such an investigation from being compromised by untimely disclosure of the prosecutor's activities that may cause those who have committed criminal acts to flee, tamper with witnesses, or destroy evidence in order to avoid conviction.

In this case, the Court has determined that Mr. Taricani has a right to a public hearing with respect to the motion to adjudge him in contempt for refusing to comply with a Court order directing him to identify the individual(s) from whom he received the video tape in question. Indeed, the Special Prosecutor's motion to compel Taricani to answer questions regarding the identity of such individual(s) was conducted in open court on July 16, 2003, and this Court's Memorandum and Order dated October 2, 2003, granting the motion was both filed and published.

Since the fact that the Special Prosecutor is posing these questions to Mr. Taricani already is a matter of public record; and, since the issue presented is a very narrow one (i.e., whether Taricani has refused, without legal justification, to answer the Special Prosecutor's questions) there is no longer any purpose to be served by maintaining confidentiality with respect to the documents relating to the resolution of that issue.

Therefore, it is hereby ORDERED that, in addition to the documents previously not sealed or unsealed (i.e., the June 28, 2001 Order), the following documents shall be unsealed:

- Request by the Special Prosecutor to Subpoena for Deposition Testimony James Taricani and Order granting that request;
- Special Prosecutor's Motion to Compel Deposition Testimony of James Taricani and Memorandum in Support;
- Motion by James Taricani for an Extension of Time to Respond to the Special Prosecutor's Motion to Compel and Memorandum in Support;
- James Taricani's Objection to Motion to Compel Testimony and Memorandum in Support of Objection;
- August 22, 2002 Order Granting Taricani's Motion for Extension of Time;
- James Taricani's Motion to Exceed the Page Limit;
- October 16, 2002 Order Denying James Taricani's Motion to Exceed Page Limit;
- James Taricani's Objection to the Special Prosecutor's Motion to Compel Deposition Testimony, Memorandum in Support, and Affidavit of James Taricani;
- James Taricani's Motion to Compel Deposition Transcript and Unseal the Proceedings, Memorandum in Support, and Affidavit of William P. Robinson, III, Esq.;
- Special Prosecutor's Motion to Exceed Page Limit and September 27, 2002 Order Granting Motion to Exceed Page Limit;
- Special Prosecutor's Objection to Taricani's Motion to Produce Deposition Transcript and Unseal the Proceedings and Memorandum in Support of Objection;

- Special Prosecutor's Reply Memorandum in Support of Motion to Compel Taricani's Deposition Testimony;
- James Taricani's Reply Memorandum in Support of Motion to Compel Deposition Transcript and to Unseal Proceedings;
- James Taricani's Renewed and Expanded Motion for Leave To Exceed Page Limit for the Filing of Appendices and/or Exhibits and Memorandum in Support;
- October 30, 2002 Order Granting Taricani's Renewed and Expanded Motion To Exceed Page Limit for the Filing of Appendices and/or Exhibits;
- Special Prosecutor's Motion to Adjudge Contempt and Memorandum in Support;
- Special Prosecutor's Motion for a Protective Order and Memorandum in Support;
- James Taricani's Objection to the Special Prosecutor's Motion to Adjudge Contempt, Memorandum in Support of Objection, and Affidavit of James Taricani;
- James Taricani's Objection to the Special Prosecutor's Motion for a Protective Order and Memorandum in Support of Objection;
- James Taricani's Motion for a Stay of Contempt Sanctions and Memorandum in Support;
- Letter dated March 8, 2004 from William P. Robinson, III, Esq.

It is hereby further ORDERED that the following documents which were either never sealed or previously unsealed, shall remain unsealed:

- June 28, 2001 Order sealing any documents filed with the Court relating to the Special Prosecutor's investigation;
- June 27, 2003 Order Denying Taricani's Motion to Compel Deposition Transcript and Granting in Part and Denying in Part Motion to Unseal Proceedings;
- October 2, 2003 Memorandum & Order Granting Special Prosecutor's Motion to Compel Testimony;

- James Taricani's Motion to Stay Implementation of the Court's Order of October 2, 2003 and Memorandum in Support;
- Special Prosecutor's Objection to Taricani's Motion to Stay and Memorandum in Support of Objection;
- December 15, 2003 Memorandum & Order Denying Taricani's Motion for a Stay;
- March 9, 2004 Order to Show Cause.

By Order


Deputy Clerk

ENTER:

Ernest C. Torres

Ernest C. Torres
Chief Judge

Date: March 11, 2004