

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Leonard Peltier,

Civil No. 02-4328 (DWF/SRN)

Plaintiff,

v.

ORDER

Federal Bureau of Investigation,

Defendant.

Barry A. Bachrach, Esq., and Michael Kuzma, Esq., on behalf of Plaintiff

Preeya M. Noronha, Esq., on behalf of Defendant

SUSAN RICHARD NELSON, United States Magistrate Judge

This Court issued an Order on August 15, 2003, concerning Plaintiff's Motion for a Vaughn index (Doc. No. 5) and Defendant's Motion for a Stay of Proceedings (Doc. No. 11.) That Order addressed the processing of Plaintiff's FOIA requests. The Court stated that processing of documents requested from the Minneapolis FBI Field Office would begin not later than December 2004, and would be completed by December 2005, as Defendant had represented to the Court. (See Order of August 15, 2003 at 15.) The Court further ordered Defendant to submit progress reports to the Court every four months from the date of the Order until the completion of its processing of Plaintiff's documents. Id.

Counsel for Plaintiff now writes to the Court and contends that Defendant is not acting in good faith in producing the documents. (Letter of January 6, 2005 from B. Bachrach and M. Kuzma to

Mag. Susan Richard Nelson.) Plaintiff requests a briefing schedule and motions hearing date to argue for expedited processing of his FOIA request.

Counsel for Defendant responds by arguing that it has produced documents in compliance with this Court's August 13, 2003 Order. (Letter of January 11, 2003 from P. Noronha to Mag. Susan Richard Nelson.) Defendant notes that the first release of documents from the Minneapolis Field Office, made on December 30, 2004, was made in good faith. Defendant states that it will make periodic releases in sixty-day intervals until December 31, 2005, at which time it will have processed and released all responsive, non-exempt FOIA documents from the Minneapolis Field Office. Defendant further details why a particular subset of documents was produced in the first round of production.

The Court construes Plaintiff's January 6, 2005 letter as a letter under LR 7.1(g) requesting a motion to reconsider this Court's prior Order of August 15, 2003. Local Rule 7.1(g) provides:

Motions to reconsider are prohibited except by express permission of the Court, which will be granted only upon a showing of compelling circumstances. Requests to make such a motion, and responses to such requests, shall be made by letter to the Court of no more than two pages in length, a copy of which must be sent to opposing counsel.

As the rule provides, a motion to reconsider requires a showing of compelling circumstances. In this instance, Defendant has produced its first round of documents from the Minneapolis Field Office in compliance with this Court's Order. As to the selection of documents, Defendant's initial round of production was made in good faith and the selection was subject to the Defendant's administrative discretion. Compelling circumstances, as required under L.R. 7.1(g), are not present in this case. Accordingly, Plaintiff's motion for reconsideration is denied.

Dated: January 11, 2005

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States Magistrate Judge