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Elena Ruth Sassower, Coordinator

By Fax: 202-879-2844 (3 pages)

March 18, 2004

Judge Brian Holeman
Superior Court of the District of Columbia
Criminal Division
500 Indiana Avenue, N.W.
Washington, D.C. 20001

RE: *United States of America v. Elena Ruth Sassower*, M-4113-03
"Disruption of Congress"

Dear Judge Holeman:

I hereby request clarification of the Court's March 17th Order, faxed shortly after 7:00 p.m. yesterday evening.

The Order, which directs a "status hearing" for Monday, March 22nd at 2:00 p.m., is preceded by a single prefatory sentence stating:

"On March 16, 2004, all counsel and *pro se* parties were notified, by telephone, of the intention of this Court to set a status hearing prior to trial."

The relevant facts, not identified by the Order and for which clarification is hereby requested, are as follows:

Late in the afternoon on Tuesday, March 16th, the Court's law clerk, Sara Pagani, telephoned Mark Goldstone, Esq., my attorney advisor, apprising him of the Court's intention to hold a "pretrial hearing" at 2:00 p.m. on March 22nd, and inquiring whether he would be available. Upon his answer in the affirmative, Ms. Pagani asked Mr. Goldstone whether he would be willing to represent or stand-in for me. His response was that although he would be willing to do so, the decision was mine to make and that Ms. Pagani should telephone me directly.

That is precisely what happened. Ms. Pagani called me and stated that she had just spoken to Mr. Goldstone and that he was willing to represent me at a "pretrial hearing" which the Court was scheduling for 2:00 p.m. March 22nd – if such were agreeable to me. Upon my ascertaining from Ms. Pagani the meaning of a "pretrial hearing" – *to wit*, that it was a "term of art" for a pretrial conference -- my response was immediate. Not only would I not confer upon Mr. Goldstone the right to appear on my behalf, but there was no reason for me to do so since I could conveniently appear on my own behalf *via* telephone hook-up.

I believe it was in this initial conversation that I requested to be permitted to appear by phone because when Ms. Pagani called me back ten minutes later (as I had asked because I had been tied up on another call), she told me, *without interrupting this second conversation to confer with you*, that you would not agree to my appearing by phone. I strenuously objected to having to be burdened with making an exhausting, time-consuming, and expensive 500-mile, \$200 round-trip from White Plains, New York to Washington, D.C. for what could so easily be accomplished by utilizing the speakerphone capability with which the courtroom is outfitted. In that regard, I urged Ms. Pagani to bring to your attention that Senior Judge Mary Ellen Abrecht had permitted me to appear by phone for the August 20, 2003 court conference held before her. The transcript of that conference -- and the audiotape from which it was made¹ – establish that the speakerphone arrangement was a successful one.

I stated to Ms. Pagani that if you were compelling me to physically appear for the March 22nd "pretrial hearing", notwithstanding you were willing to dispense with my appearance if I agreed to have Mr. Goldstone represent me, such would be further evidence of your ACTUAL BIAS – already meticulously documented by my February 23rd motion for your disqualification and by my February 26th and February 27th memoranda to Chief Judge King, *et al.* for supervisory oversight of your conduct.

Ms. Pagani indicated that you would be issuing an Order with respect to your intended-March 22nd "pretrial hearing". I expressly requested that such identify whether you were compelling my physical appearance and denying my reasonable request to appear by phone. I told Ms. Pagani that upon receiving same, I would be renewing my requests to Chief Judge King, *et al.* for supervisory oversight.

Additionally, I told Ms. Pagani that although a "pretrial hearing" is clearly appropriate, such is premature in light of Mr. Goldstone's March 9th motion presently pending before the Court to change the trial date to Monday, May 3rd. In that connection, I stated that the prosecution had not alleged any prejudice by the granting of Mr. Goldstone's continuance motion, nor

¹ Such audiotapes are readily available for the Court's listening.

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confronted the outstanding issue of my right to my subpoenaed Senate witnesses, resolution of which awaits motion practice by Senate Legal Counsel, not yet commenced. Ms. Pagani's response – which makes no sense -- was that you wanted to hold a "pretrial hearing" before ruling on Mr. Goldstone's motion for continuance.

Obvious from Mr. Goldstone's motion is that it would be far more sensible for a "pretrial hearing" to be held after my right to subpoena Senators Hatch, Leahy, Chambliss, Clinton, Schumer, and staff members of Senators Clinton and Schumer has been addressed by motion practice and a decision based thereon. As therein stated:

"...The Office of Senate Legal Counsel, which on March 4th, advised that it was authorized to accept service of such subpoenas – and which did accept service on March 5th – has stated that it will be filing a Motion to Quash the subpoenas on constitutional separation of powers grounds. It is unknown when such motion will be made – but plainly there must be adequate time for the *pro se* defendant to research the complicated constitutional law with respect to privilege immunity and the Speech and Debate Clause and, based thereon, to interpose opposing papers addressed to the specific facts of this case. Presumably, the Government will need time to respond thereto. As for the Court, which presumably has never addressed such a motion, it will likewise require time for its own studied analysis of the law – and for a decision tailored to the unique, perhaps unprecedented, facts of this case.

Needless to say, once the Court adjudicates defendants' entitlement to her subpoenaed witnesses, their availability will have to be confirmed..."
(Mr. Goldstone's motion, at p. 2)

So that I may be guided accordingly, please clarify the issues to be addressed at the March 22nd "pretrial hearing" – and whether, by your March 17th Order, you are compelling me to physically appear and denying my request to appear by telephone, notwithstanding your willingness to dispense with my appearance altogether if I relinquish my valuable *pro se* rights to Mr. Goldstone.

Thank you.


ELENA RUTH SASSOWER
Defendant *Pro Se*

cc: Mark Goldstone, Esq.

Assistant U.S. Attorney Jessie K. Liu

Supervisory authorities indicated by my February 26th and 27th memoranda

Judge Holman

TRANSMISSION VERIFICATION REPORT

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