

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, et al.,)
)
Plaintiffs,)
)
and)
)
UNITED STATES OF AMERICA,)
)
Plaintiff-Intervenor,)
)
v.)
)
STEVE MARSHALL, in his official)
capacity as Attorney General of the)
State of Alabama, et al.,)
)
Defendants.)

Case No.: 2:22-cv-00184-LCB

MOTION TO LIFT SEQUESTRATION

Respondents Kathleen Hartnett, Melody Eagan, Jeffrey Doss, James Esseks, LaTisha Faulks, Carl Charles, Michael Shortnacy, Jennifer Levi, Shannon Minter, Scott McCoy, and Asaf Orr (“Movants”) move this Court to lift the Court and Panel’s sequestration orders regarding (1) transcripts from the hearings before the Panel, (2) transcripts from the hearings before Special Master Harwood, and (3) declarations submitted by the responding attorneys to the Panel. In support of this motion, Movants state as follows:

BACKGROUND

Throughout the *In re Vague* proceeding, the Panel maintained some form of sequestration for Respondents. *See In re Vague*, Doc. 70 at 13–16. Initially, all Respondents were subject to a modified version of Federal Rule of Evidence 615. *Id.* at 13. After the August 4, 2022 hearing, the Panel partially lifted its sequestration and allowed Respondents who had already testified to sit in future proceedings. (Aug. 4, 2022 Tran. 270:13–25). At the November 4, 2022 hearing, the Panel gave additional instructions. It stated that it would permit attorneys for the Respondents to obtain and view all of the hearing transcripts and declarations provided by Respondents. *In re Vague*, Doc. 74 at 86:7–24. However, it instructed attorneys for the Respondents not to share the transcripts and declarations with the Respondents themselves, except for each Respondent’s own testimony. *Id.*¹

At this Court’s November 2, 2023 hearing—which was after the Panel reassigned the case—counsel asked the Court whether the Respondents could review the full record, including the transcripts and declarations. (Nov. 2, 2023 Tran. at 73:6–17). The Court responded, “That’s probably something else I should consider.” *Id.* at 73:18–19.

¹ On October 12, 2023, Court staff emailed transcripts from Panel’s hearings on March 20, 2022, November 3, 2022, and November 4, 2022 to all Respondents and attorneys for Respondents. Thus, Respondents have access to those three transcripts.

ARGUMENT

The need for sequestration is no longer present. The Panel noted that it wanted the unaffected, unrehearsed, and unvarnished testimony from each Respondent. (Aug. 4, 2022 Tran. at 10:11–25; 271:2–6). Respondents have already given their testimony and declarations under the Panel’s sequestration orders, and the Panel issued its Final Report of Inquiry based on the testimony and declarations. The Panel’s concerns have therefore been addressed and is no longer present. Moreover, the Respondents request access to the declarations of all Respondents in order to respond to the Court’s recent directives.

CONCLUSION

For the foregoing reasons, Movants request that the Court lift the sequestration orders regarding (1) transcripts from the hearings before the Panel, (2) transcripts from the hearings before Special Master Harwood, and (3) declarations submitted by the responding attorneys to the Panel.

Dated: March 6, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been served on all parties of record via the CM/ECF electronic filing system, electronic mail, and/or U.S. Mail on this the 6th day of March, 2024.

/s/ Brannon J. Buck

OF COUNSEL