

FILED

October 03, 2023 01:36 PM

ST-2020-CV-00155

TAMARA CHARLES

CLERK OF THE COURT

this is a copy of filing
by Ms. Maxwell dated May 18, 2023

She only has access to
US Postal Service as an
inmate

Respectfully submitted
G Maxwell

SUPREME COURT
2023 OCT -3 PM 2:46

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KAHN, in his capacity as EXECUTOR OF
THE ESTATE OF JEFFREY E. EPSTEIN,
and NES, LLC a New York Limited
Liability Company,

Defendants

THOMAS AND ST. JOHN

CIVIL NO. ST-CV-00155

COMPLEX

PLAINTIFF'S RESPONSE TO STATUS HEARING

Ghislaine Maxwell (hereinafter, "Plaintiff"), is appearing PRO SE following the withdrawal of her Attorney Kyle R. Waldner. (Order Granting Motion to Withdraw) (Doc. 50). A status hearing was held March 17th 2023. Present was Plaintiff and Counsel for Darren K. Indyke ("Indyke") and Richard D. Kahn ("Kahn") in their capacity as Co-Executors of the Estate of Jeffrey Epstein (the "Estate") and on behalf of the Estate and NES, LLC ("NES") (collectively, the "Defendants"). A 60 day stay of proceedings to allow Plaintiff to find New Counsel was proposed and accepted without objection. This response is filed to provide the court with a status update in accordance with this court's direction.

PRELIMINARY STATEMENT

This is an action for indemnification for the attorneys' fees, security costs, costs to find safe accommodation and all other expenses Plaintiff has incurred by reason of her prior employment relationship with Jeffrey E. Epstein. ("Epstein") and his businesses. Pending before this court, in above referenced matter, are Defendants' arguments to dismiss Plaintiff's case: Co-Executors Supplemental Brief In Support of Motion to Dismiss (see "SMTD"). (Doc. 36). Co-Executors Reply Brief In Support of Motion to Dismiss (see "RBMD"). (Doc. 20). Motion to Dismiss & Incorporated Memorandum of Law (see "MTD"). (Doc. 7). And Plaintiff's arguments why the Defendants' filings for dismissal in above case should not prevail: Plaintiff's Brief In Response to Court Order (See "PB"). (Doc. 39). Plaintiff's Opposition to Defendants' Motion to Dismiss (See "POMD"). (Doc. 18). The motion is fully briefed. The parties have not yet had Rule 16 conference and discovery has not yet commenced. Plaintiff is proceeding PRO SE whilst she continues to search for New Counsel. Plaintiff is requesting a stay to give her more time to find New Counsel. Additionally Plaintiff is requesting more time to review the case file which she received and reviewed for the first time the third week April 2023. (see Exhibit A). Plaintiff seeks more time to read the relevant law and statutes so she can respond to court orders and other judicial requirements, to further study and review all court documents and relevant evidence to understand the arguments, as, should Plaintiff be unable to retain New Counsel, she will continue to represent herself PRO SE and she is seeking more time to be able to do so effectively and judiciously. Further, Plaintiff is requesting a stay whilst the United States Court of Appeals for the second Circuit: Case 22-14626-CR (see "Appeal"). (See Exhibit B). is adjudicated as all counts could be vacated and dismissed rendering various arguments the Defendants' put forward for dismissal in the above case no longer valid.

Filed
May 16th 2023 11.30am
ST - 2020-CV-00155

Ghislaine Maxwell

Plaintiff

V.

ESTATE OF JEFFREY E. EPSTEIN
DARREN K. INDYKE, in his capacity as
EXECUTOR OF THE ESTATE OF
JEFFREY E. EPSTEIN, RICHARD D.
KAHN, in his capacity as EXECUTOR OF
THE ESTATE OF JEFFREY E. EPSTEIN,
and NES, LLC a New York Limited
Liability Company,

CIVIL NO. ST-CV-00155

COMPLEX

Defendants

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ARGUMENT

"The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants". *Burke V. Treasure Bay V.I. Corp.*, 2016 WL 9503682, at *3 (V.I. Super. Oct. 6, 2016) (citing *Landis V. North American Co.*, 299 U.S. 248, 254-55 (1936)). Generally, the party seeking a stay "must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to someone else." *Landis*, 299 U.S. at 254. To that end, in determining whether to grant a motion to stay, courts have considered the following factors: (1) whether a stay will simplify issues and promote judicial economy; (2) the balance of harm to the parties; and (3) the length of the requested stay. See *Burke*, 2016 WL 9503682, at *3; *Cheyney State Coll. Faculty V. Hufstедler*, 703 F.2d 732, 737-38 (3d Cir. 1983) (citing *Landis*, 299 U.S. at 254 -55). There is no prejudice to the Defendants', nor have they suggested any, for the Court not to grant a stay, and there is likelihood that the Plaintiff will prevail in the court of Appeal.

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Plaintiff filed her appeal 28th February 2023. (See Appeal). (See Exhibit B). Plaintiff has asked the Appeal court to over turn her conviction based on errors made by both the government and the trial court, several of which are fatal and which would result in the dismissal of the criminal proceedings. Point 1: "All counts should be dismissed pursuant to the Non Prosecution agreement". Point 2. "All counts are barred by statute of limitations". Point 3 "Plaintiff was denied her constitutional right to a fair and impartial jury because a juror made false statements in Voir Dire as to material facts that if known would have provided valid basis to remove him for cause". Point 4. "The court constructively amended counts 3 & 4 of the indictment". Defendants', in case before this court, have argued for its dismissal, in part, as Plaintiff, "cannot be indemnified for intentional wrong doing including criminal conduct" (See RBMD at pp 3-4 n.2.). (Doc. 20). The outcome of the Plaintiff's appeal could render various of the Defendants' arguments for dismissal invalid as they would not hold water as the Plaintiff would no longer be convicted of criminal conduct. A stay is requested for judicial economy until such time that the Appeal court has ruled.

PLAINTIFF SEEKING NEW COUNSEL

Plaintiff is seeking New Counsel as she is aware it is preferable for all parties to be represented for efficiency and for judicial economy. Plaintiff faces challenges finding New Counsel as many potential candidates are conflicted and Plaintiff is facing financial constraints. All incarcerated people have communication challenges, as Plaintiff does. Her situation is not unique but for the courts consideration, it bears noting that Plaintiff has no ability to write snail mail, E Mail, or call any potential new attorney with client attorney privilege. Communications with client attorney privilege are permitted with attorneys of record. Communications with others require pre approval which lends itself to potential delays for approval. Plaintiff is seeking a stay because of the extra time she needs, due to the particular challenges elucidated, to find and communicate with potential new Counsel.

PRO SE REPRESENTATION

In the event that Plaintiff cannot retain New Counsel she will continue to represent herself. Plaintiff is currently incarcerated and has been for almost the entire pendency of the above case. Plaintiff, along with all other incarcerated people, faces challenges working with the courts and with counsel due to difficulties encountered in Prison. As noted in Plaintiff's Appeal, "From that day (of her arrest) Maxwell was held in solitary confinement..By the time of trial, Maxwell was so disorientated and diminished that she was unable meaningfully to assist in her own defense much less to testify". (see Appeal. p.12)(Exhibit B). Participating in any legal proceedings was rendered impossible due to the "inhumane conditions" she endured. "Her conditions of confinement ranging from sleep deprivation to lack of access to legal counsel and discovery to prepare for trial", were seminal. (see Statement).(see Exhibit C). Plaintiff's entire incarceration has been spent whilst Covid protocols were in place which added additional hurdles, as it did for all other inmates, including but not limited to restrictions on in person legal visits as Covid spread. Post conviction, Plaintiff was moved to a different institution and she is currently housed under slightly less restrictive conditions, but there are still many impediments and hurdles Plaintiff needs to overcome to be able to work effectively and efficiently on the above case. The court may be not be aware that Plaintiff has no access to a computer to type any document per court norms, expectations, and requirements, no internet access to do research, and no consistent or reliable use of a flat surface to write on. There has been no photocopying machine available for inmates since November 15th, 2022 in Plaintiff's current place of incarceration. Access to a printer is not consistent and random events interfere with daily prison life and are a regular occurrence making meaningful planning or execution of work challenging. Further, once under the aegis of BOP an inmate enters a veritable technological black hole where Prison computers, that allow legal research on a closed system, give the appearance of working on an old DOS program and additional research is conducted through antiquated legal books and the use of a typewriter or pen and paper which is available for taking notes, taking those incarcerated back in time to a period Pre 1980's. In addition, however, Plaintiff has no access to relevant Virgin Island law which she was told she would have to purchase separately. (see Exhibit D). Plaintiff is respectfully requesting more time to allow her to research legal arguments, purchase and have delivered to her up to date relevant legal books, prepare and locate various documents, all with the intention to avoid delays, to promote judicial economy going forward should she be unable to find New Counsel and continue before this court PRO SE.

CLAIMS AGAINST NES AND OTHER ENTITIES

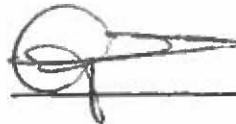
Plaintiff is surprised by Defendants' improper invitation to dismiss Plaintiff's claims based on NES 2014 Operating Agreement, a period of time long after Plaintiff ceased working for Epstein. (see Compl. p15. n46). (Doc 1). It is a bridge too far to suggest a sophisticated businessman like Epstein, sole member of NES, with experienced lawyers and financial advisors, would forgo the protections afforded by an Operating Agreement for 16 years, from 1998 - 2014 the date the Defendants' produced NES Operating Agreement. (See MTD & attached Exhibit C, NES Operating Agreement). (Doc 7). Defendants' suggest there is no legal or factual basis to believe that an earlier different agreement ever existed (telling the language of the NES operating agreement does not reference or purport to amend any prior operating agreement) (see RBMD. p.8 n.9.). (Doc. 20). These arguments are self serving. Even if the court were to credit Defendants' arguments, and it should not, under New York Law limited liability companies, when no Operating Agreement exists, the LLC is subject to "numerous sections in the (Limited Liability Company Law) that set forth default provisions applicable to the limited liability company "). N.Y. Limit. Liab. Co. 420. Plaintiff seeks additional time to review NY Limited Liability Company law, and additional case law relevant to arguments presented, and to review Virgin Island law whilst searching for an earlier Operating Agreement Plaintiff believes exists.

Plaintiff was employed by various other entities owned by Epstein (see Compl. p.8 n.52). (Doc.1). Defendants' suggested that other entities Plaintiff said she was employed by only "likely" had indemnity, and that her claims are "too thin" to satisfy the requirement for all elements of her claim. (see MTD p.8 n.8). (Doc 7). Plaintiff has located a lawsuit filed in early 2000's. United States District Court for the Eastern District of Pennsylvania, Nelson Shanks v. Leslie Wexner and Abigail Wexner, Jeffrey Epstein and J. Epstein and Co. Inc and Ghislaine Maxwell. Case No. 02-7671. ("Shanks"). (See Exhibit E). The lawsuit was regarding the non payment for painting the Wexner family by Shanks. Plaintiff was indemnified for her involvement in the Shanks suit, as she was for other suits (see PB p.12). (Doc 39). This affirmatively demonstrates Defendants' indemnifying Plaintiff for legal costs and is illustrative of a pattern that supports Plaintiff's argument that she was indemnified for all legal proceedings incurred by reason of her employment by Epstein. Plaintiff is also aware of new ongoing litigation surrounding Epstein and the Estate through which previously undisclosed information continues to surface, and Plaintiff is researching, believing that it contains pertinent information. As an example of new probative information that has come to light, in an interview that Epstein gave in his own voice that was recently aired, Epstein is quoted saying in part of the interview, "it's, it's just unfair because she (Plaintiff) really plays no role, and Ghislaine was never, never ever a part of any of this stuff." (Netflix: Filthy Rich. 25th Nov, 2022).

CONCLUSION

For the reasons set forth herein Plaintiff respectfully requests a 180 day stay of proceedings, or until Plaintiff's Appeal is rendered or any amount of time this court deems right and proper.

Respectfully submitted,



DATED: 16 May 2023

LD.# 007R-509
Federal Correctional Institutional
501 Capital Circle NE
Tallahassee, FL 32301

Exhibit A

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

CIVIL CASE NO.: ST-2020-CV-00155

Ghislaine Maxwell
Plaintiff,

vs.

ESTATE OF JEFFREY E. ESPSTEIN, DARREN K.
INKYKE, in his capacity as EXECUTOR OF THE
ESTATE OF JEFFREY E. EPSTEIN, RICHARD D.
KAHN, in his capacity as EXECUTOR OF THE
ESTATE OF JEFFREY E. EXPSTEIN, and NES, LLC,
a New York Limited Liability Company,
Defendants,

TRANSMITTED HERE WITHIN

Complete Copy of Entire file case ST-2020-CV-00155

TO BE OPEN IN THE PRESENCE OF THE INMATE ONLY.

Please signed and return, or email.



GHISLAINE MAXWELL

4/21/23
DATE and TIME

Superior Court of the Virgin Islands
P.O. Box 70
St. Thomas, U.S. V.I. 00804-0070

Paula.claxton@viccourts.org

EXHIBIT A

22-1426-CR

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

EXHIBIT B

PRESS STATEMENT FOR IMMEDIATE RELEASE

WWW.Aidalalaw.com

EXHIBIT C

D

RESPONSE TO INMATE REQUEST TO STAFF MEMBER

NAME: Maxwell, Ghislaine

Register Number: 02879-309

Unit: B South

This is in response to your Inmate Request to Staff Member dated April 21, 2023, and received in this office on April 25, 2023. You request access to Virgin Island case law for your pending case in the Superior Court of the Virgin Islands, Division of St. Thomas and St. John. As relief, you request books or comprehensive computer access for research of legal relevance.

Inmate access to legal materials is governed by Program Statement 1315.07, Legal Activities, Inmate. Per that Program Statement, each Warden must establish a main law library containing the materials listed in the Required Main Law Library Materials (Attachment A). The Bureau is not mandated to provide state case law and/or other state legal materials. Pursuant to Program Statement 5266.11, Incoming Publications, you may purchase legal materials from outside the institution.

I trust this addresses your concerns.



Megan G. Marlow, Attorney

4/28/23
Date

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NELSON SHANKS
1163 State Road
Andalusia, PA 19020

v.

LESLIE and ABIGAIL WEXNER, h/w
One Whitebarn Road
New Albany, OH 43054

and

JEFFREY E. EPSTEIN, individually
and d/b/a J. EPSTEIN AND
COMPANY, INC.
The Villard House
457 Madison Avenue, 4th Floor
New York, NY 10022

and

GHISLAINE MAXWELL
The Villard House
457 Madison Avenue, 4th Floor
New York, NY 10022

Case No. 02-7671

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of the foregoing,

Plaintiff's Response to Status Hearing

upon the following addresses, by placing same in a sealed envelope, bearing sufficient postage for the delivery via United States Mail Service to:

Ariel M. Smith Esq. (AAG)
VIRGIN ISLANDS DEPARTMENT OF JUSTICE
Office of the Attorney General
34-38 Kronprindsesn Gade
St. Thomas, U.S. Virgin Islands 00802

and deposited in the postal box provided for inmates on the grounds of the Federal Correctional Institution Tallahassee, Florida 32301 on this 16th day of May 2023,

Ghislaine Maxwell

Litigation is deemed FILED at the time it was delivered to prison authorities.

See: Houston v. Lack, 487 US 266, 101 L Ed 2d 245, 108 S Ct 2379 (1988).