

PLAZA
EXHIBIT

KC FILED

FEB 14 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS (Chicago)

AARON PATTERSON, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 JON BURGE, Former Chicago)
 Police Lt., #338, et al.,)
)
 Defendants.)

Docket No. 03-CV-4433

Chicago, Illinois
June 23, 2006

HEARING ON MOTIONS
BEFORE THE
HONORABLE MAGISTRATE JUDGE GERALDINE SOAT BROWN

APPEARANCES:

For the Plaintiffs:

AARON PATTERSON FRANK B. AVILA
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For the Defendants:

City of Chicago PAUL A. MICHALIK
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For LEROY MARTIN and KENYA JENKINS
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APPEARANCES: (Continued)

For the Defendants:

For Individual Police
Offices in Patterson

RICHARD T. SIKES
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FREEBORN & PETERS
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311 South Wacker Drive
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ALSO PRESENT:

For the M.C.C.

KURT LINDLAND
Asst. U.S. Attorney
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For the U.S.
Marshals Service

DONALD O'MALLEY

PLEASE PROVIDE CORRECT VOICE IDENTIFICATION

Transcribed by:

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PLAINTIFF
EXHIBIT 4

1 Cases.

2 Maybe we can take that in a minute because Mr.
3 Lindland is here to talk about the other motion, which is
4 Plaintiff's Motion to Permit Wallace Bradley to Meet with
5 Plaintiff in the Presence of Plaintiff's Attorneys and/or
6 Separately with Plaintiff at the M.C.C.

7 Well, what are you -- Are you asking that -- Well,
8 let me ask this: Is Mr. Bradley allowed to meet with Mr.
9 Patterson at the M.C.C. at the present time?

10 MR. AVILA: My understanding is no. He did fill out
11 some paperwork. I don't know what the status is of that.
12 There's so much confusion when I talked to Mr. Shaw and when we
13 were here last time, as you'll recall, the U.S. Marshals office
14 claimed that there was an issue with Mr. Bradley. And that's
15 all the information I have.

16 And what are you asking here? Is that he be allowed
17 to meet with you in the attorney private areas of the M.C.C.?

18 MR. AVILA: Yes. That is one of the things I'm
19 asking and there is precedent for that. Judge Pallmeyer, in
20 the attachment to my motion, had allowed that in the past.
21 Moreover, you had an issue with attorney-client privilege. Mr.
22 Bradley has been acting as a consultant in this case for me,
23 and so I believe attorney-client privilege would attach insofar
24 as he was a contract employee of my firm even though you had an
25 issue with attorney-client privilege.

1 The second issue, I understand from the Marshals
 2 office, was an issue of security. And I would be willing to,
 3 you know, accommodate the prison or the Marshals office in
 4 terms of allaying any of those concerns and Mr. Bradley is here
 5 in person to address any of those concerns also.

6 THE COURT: Well, let me just address first the issue
 7 of Judge Pallmeyer. Judge Pallmeyer didn't give a blanket per-
 8 mission for Mr. -- for anyone to meet with Mr. Patterson. It
 9 was not actually in this case, as stated in the motion. It was
 10 in Mr. Patterson's criminal case and what she ordered was that
 11 Mr. Patterson would be permitted a five-minute non-contact
 12 visit with his attorney and one visitor in the Marshals lockup.
 13 And that's very different from what is being sought here, which
 14 is some sort of open-ended opportunity for Mr. Patterson to
 15 meet with a specific individual as to which I understand there
 16 is some security issues. So we're talking about two different
 17 scenarios here.

18 But the motion -- And who else wants to be heard?
 19 Mr. Lindland, want to speak to this? Make sure you're close
 20 enough to the microphone --

21 MR. LINDLAND: Sure.

22 THE COURT: -- so your remarks get picked up.

23 MR. LINDLAND: We have a number of objections,
 24 obviously, and reasons, but I'd say the main one and the
 25 relevant one here, your Honor, is as you probably know, the

1 Court lacks jurisdiction to order the M.C.C. to do anything
2 with respect to Mr. Patterson. They've got an administrative
3 process. He needs to go through it. He hasn't gone through it
4 and so until he does the Court does not have jurisdiction over
5 the M.C.C.

6 THE COURT: What's the process?

7 MR. LINDLAND: There's an administrative process. He
8 fills out various forms. They send him up their chain; either
9 approve him or disapprove him. If they disapprove his request
10 for a visit he has an appeal avenue that he can go through to
11 have that reviewed. If he doesn't like it at the end I imagine
12 there's an A.P.A. review under the Administrative Procedures
13 Act that's based on the administrative record.

14 THE COURT: So if he wants to have Mr. Wallace visit
15 him he can fill out some paperwork requesting that that leave
16 be granted? Is that how it would work?

17 MR. LINDLAND: That's correct. There's a sort of
18 process where he fills out a request. He's got to have the
19 visitor actually fill it out and sign it, is my understanding,
20 and they send that in to the M.C.C. and they process it and
21 either approve it or disapprove it. If they disapprove it he
22 can appeal that decision through the M.C.C, the Bureau of
23 Prisons, (inaudible).

24 THE COURT: Sir?

25 MR. O'MALLEY: Your Honor, Don O'Malley on behalf of

1 the U.S. Marshals Service. We're here today just to adamantly
2 oppose this motion. Judge Pallmeyer, at one point during Mr.
3 Patterson's criminal trial, did issue a minute order for this
4 five-minute contact which we also adamantly opposed at the
5 time. That was in our lockup. He was not in a secure area
6 with Deputy Marshals that were present.

7 We have a real issue with allowing anyone but counsel
8 of record sitting with Mr. Patterson at counsel's table. Mr.
9 Patterson has a tremendous history of not being able to behave
10 himself while in this courthouse. Having Mr. Bradley at the
11 table with him is going to be no help and will only cause more
12 problems as far as we're concerned. So that's our view on it.

13 THE COURT: Counsel, anybody on behalf of the
14 defendants want to speak to this issue at all?

15 MR. MICHALIK: On behalf of the City, I don't know
16 that we really can take a position on this issue really. It's
17 something with the Court and the plaintiff.

18 THE COURT: Anybody want to --

19 MR. SIKES: Judge, we don't have a position on it
20 either other than to state we don't want our silence to
21 indicate that we believe that there is any validity whatsoever
22 to this concept of an urban translator that's being proposed in
23 this motion. That's all, Judge.

24 THE COURT: Mr. Avila?

25 MR. AVILA: Yes, your Honor. To --

1 THE COURT: Be sure you're close enough.

2 MR. AVILA: Thank you, your Honor. Actually, the
3 firm urban translator was used by Attorney Patricia Bobb in a
4 media report, not by myself, I said analogy to a translator.

5 But to address the issues of the M.C.C., Mr. Bradley
6 has filled out the paperwork. He has sent it in. I showed a
7 copy of that paperwork to Mr. Shaw Wednesday, this last
8 Wednesday, the day of the deposition. And we're uncertain
9 where that paperwork is. And because, as you stated last time
10 that Mr. Patterson will be sentenced soon, obviously going
11 through a process where we don't know where the paperwork is,
12 then if it's rejected we go through appeal, that the time delay
13 is the reason we're in here.

14 Moreover is that we don't -- He's not just asking.
15 We are not just asking this Court for him to go into a normal
16 visit; we are asking for him to go with me.

17 In terms of the U.S. Marshal's suggestion that Mr.
18 Paterson has had a lot of problems in this Court, my under-
19 standing that is correct, that's before I was on this case, of
20 course. But since Mr. Bradley has been involved, as you'll
21 recall the first day, Mr. Patterson has been acting, I believe,
22 about three months-plus pro se, was not aware of many things
23 going on, has had numerous problems in his criminal case which
24 I'm not involved in, but now, since Mr. Bradley has been
25 involved and at the suggestion, I believe, of Judge Gottschall

1 to -- Mr. Bradley got up and said well, I'm helping him find an
 2 attorney. He found him an attorney. He has an attorney
 3 appearance on record, an attorney with other documents of
 4 record that Mr. Patterson has signed, and moreover is that we
 5 did do the deposition on Wednesday and I believe that it was a
 6 -- I don't want to misrepresent anything that the other side
 7 may feel -- it was a more expedited deposition. It was an
 8 easier-going deposition than in times past.

9 So Mr. Bradley's involvement has definitively been
 10 positive and for the Marshal to say that Mr. Bradley's
 11 involvement is not or would not be is incorrect. He is in
 12 front of this Court when Mr. Bradley met with Mr. Patterson.
 13 Now he has an attorney. Mr. Patterson was not as accommodating
 14 perhaps to the deposition process; now we have at least one
 15 more deposition completed.

16 So Mr. Bradley has been helpful to this process.
 17 That is empirical. That is without a doubt a fact.

18 THE COURT: Well, I have given this matter some
 19 thought since you first raised it orally, Mr. Avila. And I
 20 have reviewed the material, the motion that you put before me
 21 today. I've listened to what the various speakers have said.
 22 And my observations are the following: Mr. Patterson, in the
 23 occasions when he has been before me, has had no problem making
 24 himself understood or understanding what is going on in the
 25 court. I don't see any communication problem that he has had

1 whatsoever in ability to comprehend what's going on or ability
2 to communicate.

3 Now to the extent that his cooperation is improved by
4 having another person, well, that's his decision: He
5 cooperates or he doesn't cooperate. And having wisely, in my
6 view, chosen to retain counsel to represent him in this case,
7 it is up to him to decide to cooperate.

8 I am very reluctant to even explore the issue of
9 whether I would have authority to order the M.C.C. to change
10 its procedures and policies for an accommodation in a civil
11 case. I have to respect the fact that the M.C.C. and the
12 officers thereof have responsibility for the security of many,
13 many people, some prisoners, some attorneys, personnel. They
14 have to create their policies in accordance with their security
15 procedures developed over long periods of time and with a great
16 deal of experience.

17 This is not a situation in which someone is saying to
18 me my civil rights are being violated. This is a situation
19 where someone is asking me to override strongly-taken positions
20 by the M.C.C. and the Marshals Service to facilitate
21 cooperation in a civil case. To me, that is not a sufficient
22 justification to override the serious security concerns and the
23 regular protocols and procedures of the M.C.C. and the Marshals
24 Service.

25 So I don't see the need for it. I think that Mr.

THE COURT: Is there anything else -- No, I'm not even going to say that. Have a good day. Have a good weekend. Have a nice holiday.

(Hearing adjourned.)

I, RIKI SCHATELL, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Riki Schatell
Riki Schatell

February 6, 2008
Date