

Anne L. Weismann
Citizens for Responsibility and Ethics in Washington
1400 Eye Street, N.W., Suite 450
Washington, D.C. 20005
Telephone: (202) 408-5565
Facsimile: (202) 588-5020

Attorney for CREW

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT,
FLATHEAD COUNTY, STATE OF MONTANA**

STATE OF MONTANA,)	
)	
Plaintiff,)	
)	
v.)	Case No. DC-09-468C
)	
GREGORY BARKUS,)	
)	
Defendant.)	

OPPOSITION TO MOTION FOR A CONTINUANCE

Non-party Citizens for Responsibility and Ethics in Washington (“CREW”) hereby opposes the motion of defendant Gregory Barkus for a 30-day continuance to respond to CREW’s request to publicly release the presentence investigation report (“PSI”) submitted in the underlying case. By Order dated October 12, 2012, this Court directed Mr. Barkus to respond to CREW’s request by October 23, 2012. The grounds for this opposition are set forth below.

INTRODUCTION AND ARGUMENT

Defendant’s request for a continuance is premised on other litigation duties of his counsel, the supposed complexity of the issues raised in CREW’s request, the length of the PSI,

and the fact that the PSI purportedly contains personal information pertaining to a number of witnesses and individuals. None of these assertions justifies the requested 30-day continuance.

First, only Mr. Barkus is requesting a continuance through his counsel, Todd Glazier, who apparently represents only Mr. Barkus in this matter. Accordingly, the response required by this Court's order pertains to Mr. Barkus only, not the other individuals and witnesses named in the PSI. Indeed, the Court's October 12 Order states expressly that the Court, not private counsel, will "conduct an in camera inspection to consider appropriate protective order(s) to protect the privacy interests at stake of "other individuals, such as witnesses and supportive family and community members." Thus, defendant's motion is based on a widely inflated and incorrect notion of what his response to the Court Order must address.

Second, having represented Mr. Barkus throughout this criminal matter, Mr. Glazier should be very well-versed with the underlying facts and the contents of the PSI. This familiarity, in turn, should minimize the amount of time he must spend addressing any legitimate privacy interests Mr. Barkus retains.

Third, the issues raised by CREW's request are really quite simple. As this Court recognized in its October 12 Order, Montana case law clearly establishes the public's right to information about individuals like Mr. Barkus and Rep. Dennis Rehberg, who occupy or have occupied positions of trust. The only remaining question is whether the significant public interest in disclosure is outweighed by the individual privacy interests of Mr. Barkus and others. Given the Court's findings to date, all that Mr. Barkus need provide is an explanation of any privacy interests he continues to maintain, notwithstanding the very public nature of his crime and sentencing.

Finally, CREW must correct a blatantly false accusation made by the defendant. As CREW explained to Mr. Barkus's counsel when he contacted CREW for its position on this motion, CREW was unaware of the existence of the sealed PSI and its possible implications until very shortly before it filed its request that the PSI be made publicly available. CREW did not "wait over 18 months" to make its request, as the defendant falsely charges. Nor is CREW pursuing a political motive, a charge that is pure fiction, completely without foundation, and has no legitimate place in this matter. CREW is a non-partisan ethics watchdog group with an established record of seeking the disclosure of a wide range of information that bears on the ethics and ethical conduct of public officials, no matter their political affiliation. Moreover, as this Court already has recognized, the ongoing public interest in this information clearly establishes CREW's entitlement to the PSI. *See* Order of October 12, 2012, p. 4.

CONCLUSION

For the foregoing reasons, CREW respectfully requests that the Court deny the defendant's request for a 30-day extension to respond to CREW's request to disseminate the PSI in this case.

Dated this 22nd day of October, 2012.




Anne L. Weismann
Attorney for CREW

CERTIFICATE OF SERVICE

I hereby certify that I caused copies of the foregoing opposition to be served on the 22nd day of October, 2012, on the following by causing a copy thereof to be delivered by U.S. mail, postage prepaid:

Todd D. Glazier
Glazier Law Firm, P.C.
P.O. Box 202
Kalispell, MT 59903-0202

Ed Corrigan
Flathead County Attorney's Office
920 South Main Street
Kalispell, Montana 59901



Anne L. Weismann