

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA
97 JUL 31 AM 9:40

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jm

PAUL A. BONACCI,)
)
 Plaintiff,)
)
 vs.)
)
 PETER CITRON, et al.,)
)
 Defendants.)

4:CV91-3037
NORBERT H. EBEL
CLERK

ORDER REGARDING POSSIBLE
UNSEALING OF MATERIALS
AND DEFENDANT ALAN BAER'S
REQUEST TO CONTINUE TO
MAINTAIN DOCUMENTS UNDER SEAL

By my order of June 10, 1997, I said that all parties should have until June 23, 1997, to make any objection to the unsealing of materials submitted by the defendant Baer in support of his motion for summary judgment and request that the materials submitted remain unsealed or, as an alternative, that the defendant Baer be authorized to withdraw the materials submitted in support of his motion. The plaintiff agrees to and offers no objections to that request.

Although there has been inquiry by the press about the availability of sealed materials, there has been no formal request for the unsealing. It appears to me that I should continue to have the documents sealed in the absence of a formal request for their being unsealed and in the presence of a request by both the defendant Baer and the plaintiff that the documents remain sealed. The suggested alternative of allowing the materials' withdrawal has less merit, it seems to me, than continuing to seal the documents, because if some interested person has legitimate interest in those documents, he or she can make a request for the unsealing and the availability of the documents will be greatly enhanced by their continuing to be in the possession of the court than if they are released to the defendant Baer. Generally, I think damage to persons in a lawsuit such as this one is more likely to be avoided or dissipated by revealing of information than by concealing it. Nonetheless, there is no particular virtue in its being made available unless some person affirmatively wants it to be made available.

IT IS ORDERED that the defendant Alan Baer's request to continue to maintain documents under seal, filing 220, is granted, but the alternative request that the court allow the materials submitted in support of the motion for summary judgment be withdrawn is denied.

Dated July 31, 1997.

BY THE COURT


United States Senior District Judge

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA

97 JUN 23 PM 3:37

220
Jan

MORBERT H. EBEL
CLERK

CV 91-3037

PAUL A. BONACCI,)
)
Plaintiff,)
)
vs.)
)
THE CATHOLIC ARCHBISHOP OF)
OMAHA, et al.,)
)
Defendants.)
)
_____)

DEFENDANT ALAN BAER'S REQUEST
TO CONTINUE TO MAINTAIN
DOCUMENTS UNDER SEAL

COMES NOW the Defendant, Alan Baer, by and through his attorneys of record, pursuant to this Court's Order of June 10, 1997, and objects to the unsealing of those materials submitted by the Defendant Baer in support of his Motion for Summary Judgment, Filing 186, and the Court's Memorandum and Order on Motion for Summary Judgment dated December 29, 1995, Filing 196. Alternatively, Defendant Alan Baer would request that the Court allow the materials submitted in support of his Motion for Summary Judgment as referenced herein to be withdrawn by the Movant rather than unsealed.

In support of these requests, Defendant would show the Court as follows:

1. That these materials contain scandalous and scurrilous accusations which are factually unsupported and which have now been rejected by this Court.
2. That these materials, if released to the general public, could result in damage to Defendant Baer, the other Defendants in this action, as well as other individuals whose names have surfaced in this cause but who were not parties to this litigation.

3. That there are remaining Defendants who arguably could be prejudiced by the release of this information if this case were ever to proceed to trial.

4. That although this case has been on file for a considerable period of time, it appears that local media interest in this case has not subsided, as evidenced by the attached article from the *Omaha World Herald* discussing the Court's recent ruling with respect to some of the Defendants. That media interest creates a real, and not hypothetical, concern that releasing references to the baseless and scandalous allegations that are under seal could cause significant damage to the Defendant Baer, as well as other Defendants and non-parties to this litigation.

5. That given the rulings of this Court and the Eighth Circuit Court of Appeals, it would not appear that the Plaintiff would be damaged or otherwise prejudiced by continuing to maintain these materials under seal.

6. That pursuant to NELR 7.1(a)(1), Defendant is not submitting a brief with this Motion as the Motion raises no substantial issue of law and the relief sought is within the Court's discretion.

7. That if the Court is disinclined to grant Defendant's request to maintain under seal all of the materials referenced in the Court's Order of June 10, 1997, then he respectfully requests that the Court allow the Movant to withdraw those materials submitted by Defendant Baer in support of his Motion and file with the Clerk of the Court only the Defendant's Motion for Summary Judgment, Filing 186, and the Court's Memorandum and Order on Motion for Summary Judgment, Filing 196.

WHEREFORE, the Defendant respectfully requests that the Court continue to maintain under seal the documents referenced herein or, alternatively, file with the Clerk of the Court Defendant's Motion for Summary Judgment and the Court's Memorandum and Order granting same, and allowing the Movant to withdraw the materials offered in support of his Motion for Summary Judgment.

RESPECTFULLY SUBMITTED this 23rd day of June, 1997.

ALAN BAER, Defendant

By: 

EDWARD G. WARIN, #14396

McGrath, North, Mullin & Kratz, P.C.

1400 One Central Park Plaza

222 South 15th Street

Omaha, NE 68102

(402) 341-3070

Creighton University Medical Center School of Medicine
University of Nebraska Medical Center College of Medicine



CREIGHTON-NEBRASKA DEPARTMENT OF PSYCHIATRY
2205 South 10th Street
Omaha, NE 68108
(402) 449-4184



Frank J. Menolascino, M.D.
Chairman

REPORT OF PSYCHIATRIC CLINICAL INTERVIEWS
WITH PAUL BONACCI

As of April 9, 1990, I have conducted six interviews with Mr. Bonacci on November 22, 1989, January 10, January 24, March 7, March 16 and April 5, 1990. Mr. Bonacci is a 22 year old man (DOB 8/3/67), very light-build, dark hair, clean-shaven, always polite and well-mannered. He has pled no contest to a charge of sexually fondling a nine year old boy. He understands that I am to report as to whether or not I consider him to be a Mentally Disordered Sex Offender. He has been more than cooperative because the interviews have revealed that he is suffering from multiple personalities, an unusual form of psychiatric disorder. Mr. Bonacci presents a typical case. He has numerous alternate personalities, each one having an individual identity, a different name and certain individual characteristics. Many of the alternate personalities are aware of each other and are usually aware of what the original personality, Paul, is doing, but Paul is not aware of who the personalities are and what they are doing.

Because of the interviews, and some discussion of his problem, Paul does now have some awareness that he has multiple personalities although, typically, he is still mystified by the situation and finds it difficult to accept. He does know, however, that there have been reports from friends and relatives of his assuming different personalities, behaving in uncharacteristic fashion, and later not being able to recall some of the things reported that he had done.

This condition presents with bizarre symptomatology, but it is not a psychosis. It is classified as a dissociative disorder in which a person separates or "dissociates" himself from his usual pattern of thinking and awareness. A more common example of a dissociative disorder is amnesia.

It is typical that multiple personality disorder is associated with a very disorganized childhood during which they suffered severe, and often repeated abuse. According to the history that Mr. Bonacci presents, this is quite true in his case. He related a very detailed, complicated history of which the following seems to be most significant.

Page 2

RE: Paul Bonacci

He was born and brought up in the Omaha area, the fifth of six children of Mr. John Bonacci. His parents were divorced before his younger brother^{had} was born. His father lives in Lake Manawa, Iowa, and he has no contact with his father until recently. "Father never claimed me, but he does now." His mother soon remarried a Mr. Robert Boukl who was very abusive to the children, particularly to Paul. He remembers this man as using any excuse to beat the children, and he remembers him doing such things as chopping toys in two with an axe. He doesn't remember how long this marriage lasted (perhaps no more than two or three years), but they broke up following an episode in which he beat Paul's mother quite severely.

Mother then soon remarried a Mr. Jack McCoy. He was a much better stepfather because he did not beat the children, but "he ignored me because I was different". Mr. McCoy died of a heart attack in July of 1983.

Mr. Bonacci said that much abuse also came repeatedly from his older brothers. The oldest child in the family was Tim and the next two were identical twins, John and Clifford. These brothers "beat me up all the time". "If others fought me, they would help them." He described himself as the one in the family who was always picked on. "They used to call me a girl - a fag." These boys had their share of delinquent problems, particularly Clifford who used a lot of drugs and had trouble with the law.

Mr. Bonacci said his worst experiences began when he was about six years old when he was repeatedly molested by a 14 year old male babysitter named Jason. He said that he told his mother what was going on, but his mother would not believe him. Jason was a pal of his older brothers and what would happen most of the time was that mother would leave him to be looked after by his older brothers, but his brothers wanted to go someplace to do something so they would leave him with Jason, and Jason would molest him again. The brothers would also set him up to get other people to pick on him, and when I questioned Mr. Bonacci as to why his mother or stepfather did not become aware of this and intervene, he said that mother just "didn't listen and Jack McCoy was not talkative and did not get involved".

As he remembers his school experience, it went fairly well until he was in the third grade and moved to Carter Lake. He then began to get bad grades simply because he did not care and he realized that others thought he was weird. He had some black friends, and some of the white boys would pick on him because of that and make fun of him. It was also about this time that he first began to notice blank periods of time in which he could not remember later what he had done. Evidently, these were the first experiences of having an alternate personality take over.

At age ten, he was introduced to drugs by older boys in Carter Lake and very soon began to use a lot of "speed, pot and used more acid later". He discovered from friends that one easy way to get money to pay for drugs was to be paid for sexual favors. He did this the first time when he was only 9-1/2 or 10 years old. On warm summer evenings, he would go down by Elmwood or Hanscom Park and stand in a place where men would stop and pick him up in cars. Usually, they would not go any place but simply have sex in the car which, at first, consisted of him only performing oral sex on the man, but when he got older, he would be involved in other sexual activities. He says that he remembers doing this many times, but never felt any pleasure "as Paul" but just did it for the money. His folks did not seem to care that he kept late evening hours on summer nights. He would just tell them that he had been out with friends.

Mr. Bonacci says that he also got "messed up with Satanism" beginning about age 12. It involved such strange rituals as drinking cat's blood and urine. He did not look back on this as anything that he enjoyed, but felt at the time that he had to do it to be accepted by some other boys who called themselves "Knights of Darkness". "I was trying to reach out for something."

He said that he got away from the Satanism after suffering some disappointments. An Aunt Mary who had been nice to him died and about the same time his stepfather died unexpectedly of a heart attack. Soon after that, a young friend his age committed suicide. He began going to church in January, 1984, and has had some intermittent interest in religion ever since. Despite this, however, he admits that he continued using a lot of drugs and going to a lot of parties where he served as a young male prostitute. Eventually, he was admitted to the Nebraska Psychiatric Institute in April of 1986 where the multiple personalities were not discovered but, because of strange symptoms interpreted as hallucinations, he was considered at that time to be suffering from schizophrenia. One important benefit of this hospitalization, however, was that he stopped using drugs on a regular basis although he admits that he has used them just occasionally since, and the last time was some LSD in August of 1989.

With all these activities, and several family moves, his education was repeatedly disrupted but, in one way or another, he continued and finally in 1988, at age 20 years and 10 months, he did get a high school diploma from the Individualized Study Center at 30th and Fort.

He described an interesting job experience in the summer of 1989 when he worked for three weeks at some recreation place named River Crest where his first duties were to help keep the place clean, mow lawns, clean the pool and sometimes act as lifeguard. During the second week, they advanced him to help out in the

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RE: Paul Bonacci

kitchen, but the entire third week he was working there, he has no recollection whatsoever, but he does know that at the end of that week, they fired him and he never knew what he did or didn't do that was the cause of his dismissal.

Regarding the incident with the nine year old boy, he remembers the occasion when they were lying down next to each other to go to sleep, but he has no recollection (as Paul) of deliberately touching the boy.

CONCLUSIONS: Mr. Paul Bonacci is suffering from a multiple personality disorder. I do not consider him to be a Mentally Disordered Sex Offender in the usual meaning of that term. The principle personality Paul has no wish to molest children, is quite religious, and is not inclined to have homosexual interests.

I do, however, believe that Mr. Bonacci is very much in need of extensive psychiatric help, such as may be available at the Lincoln Regional Center, to help him create a personality structure, or structures, less inclined to dissociate. Currently, a majority of his alternative personalities are heterosexually oriented, but there are some with a homosexual orientation and some that actually identify themselves as female rather than male personalities. Having an alternate personality of a different gender may seem unbelievable, but it is actually typical of complex, multiple personality cases.

Without treatment, it is conceivable (and this is probably what happened in the contact with the little boy) that if placed in an unusual circumstance, an alternative personality might temporarily take over and commit such an act of fondling, although it is also true that such behavior will be stopped, or at least quickly checked, by another alternate personality which would disapprove of such behavior. It all gets quite complicated.

Beverley T. Mead, M.D.
Professor of Psychiatry

BTM/mlm

Judge Clears 3 More in Bonacci Suit

Claims of Sexual Abuse Called Unsubstantiated and Bizarre

BY ROBERT DORR
WORLD-HERALD STAFF WRITER

A federal judge has determined that claims of sexual abuse made several years ago by Paul A. Bonacci of Omaha were unsubstantiated and bizarre.

The claims by Bonacci, now 29, were among accusations made in 1989 and 1990 by four young adults. The four said they had been sexually abused as young teen-agers by prominent Omaha business and political figures.

Those accusations, which emerged during investigations into the 1988 collapse of Omaha's Franklin Community Federal Credit Union, were discredited by a Douglas County grand jury. The grand jury called them a carefully crafted hoax.

Despite the grand jury's conclusions, Bonacci filed a lawsuit in 1991 in U.S. District Court in Lincoln against 16 defendants, accusing them of abusing him sexually and in other ways while he was growing up in Omaha, or of contributing to such abuse.

The case never has been tried in court. In previous court actions, 11 of the defendants have been cleared.

On Wednesday, U.S. District Court Judge Warren Urbom of Lincoln cleared three of the remaining defendants: former Omaha Police Chief Robert Wadman, Omaha Police Detec-

tive Michael Hoch and the City of Omaha.

With those three cleared, only two defendants remain among the original 16: Lawrence E. King Jr., former Franklin Credit Union manager who is serving a prison term for financial crimes, and Peter Citron of Omaha, former entertainment columnist and broadcaster who served a prison term for sexual contact with boys under age 14 and now lives in Omaha. Neither is believed to have significant financial assets.

King has not been defended by a lawyer in the Bonacci lawsuit. Citron's lawyer said he is confident of getting Citron cleared.

Bonacci has been represented by Lincoln lawyer John DeCamp, a former state senator. Assistant Omaha City Attorney Wendy Hahn, who represented the three defendants cleared this week, said Thursday she is considering seeking court-imposed penalties against DeCamp.

Ms. Hahn said she might seek sanctions under a federal rule that requires lawyers to determine whether there is some basis in fact for allegations before filing a lawsuit. Allegations made in a lawsuit "shouldn't be frivolous," she said.

The federal rule in question, Rule 11 of the Federal Rules of Civil Procedure, can result in sanctions such as re-

quiring a lawyer to pay costs of the legal action and the fees of opposing attorneys.

DeCamp responded that his representation of Bonacci didn't amount to anything frivolous. "Anybody who suggests that this was frivolous is living in the Middle Ages and in my opinion isn't really concerned about protection of children," he said.

DeCamp said he still believes Bonacci is telling the truth despite Urbom's decision. He said he hasn't decided whether to appeal Urbom's decision.

In his decision, Urbom said that "there has not been one word of evidence... to support Bonacci's claims."

Bonacci was addicted to illegal drugs, according to his own testimony, the judge said.

Urbom added: "The testimony of the plaintiff (Bonacci) in many respects is bizarre. Multiple personality disorder is a cruel mental condition. Its effects are stunning."

Wadman, after leaving Omaha, was police chief in Aurora, Ill., and in Wilmington, N.C. Wadman now lives in Pocatello, Idaho, where he teaches political science and criminal justice classes at Idaho State University, Pocatello and is completing his doctorate in political science.

Hoch was one of the Omaha police officers who interviewed Bonacci and investigated his original claims in 1990.

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Senaor Loran Schmit of Bellwood, Nebraska, being first duly sworn, does depose and say as follows:

1. That he was Chairman of a special Legislative Investigative Committee commonly referred to as THE FRANKLIN COMMITTEE.
2. That as a consequence of his work on this committee he became familiar with a witness identified as Paul Bonacci who provided extensive testimony to the committee on several occasions;
3. That because of the grave nature of the testimony and the implications of the testimony Paul Bonacci provided the committee and because of the Douglas County Franklin Grand Jury conclusions which suggested that Paul Bonacci when telling his story to the Grand Jury was in fact lying; and
4. That as a result of the various investigations the Committee has conducted to determine if Paul Bonacci lied to the Legislative Committee relative to his stories of child abuse, drug abuse, satanic cult involvement, etc., this Senator now believes that Paul Bonacci did tell the truth to the Franklin Committee and the Committee Investigator.
5. That Paul Bonacci is in danger of being killed or otherwise injured or intimidated.
6. That this Senator as Chairman of the Franklin Committee had been warned that Gary Caradori was in danger and probably did not take such warning seriously enough and;
7. That this Senator was concerned that Alesha Owen or her family were also personalities involved in the Franklin investigation and might be in danger; and
8. That in both the above instances the individuals involved, Gary Caradori and his son, and Alicia Owen's brother, died violent and controversial deaths which may or may not have been associatged with a cover-up of Franklin matters but which deaths have raised serious questions as to whether they were natural or were associated with Franklin in this Senator's opinion.
9. That this Senator believes that it is in the public interest for a system of definite protection to be afforded to Paul Bonacci until such time as the absolute and unquestioned truth can be determined with respect to whether Paul Bonacci's stories of child abuse, drug abuse, are in fact true or false and;

Q. That so serious has this Senator taken which concerns that he personally has contacted both the Governor of the State of Nebraska as well as prison officials and expressed this concern and given this warning of the need for some form of witness protection to be afforded to Paul Bonacci until such time as a final resolution of the veracity or falseness of Paul Bonacci's story can be determined.

Further affiant sayeth not:

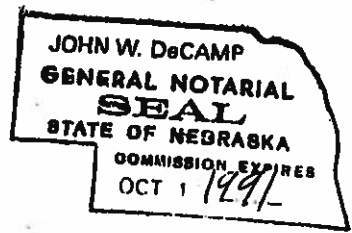
Dated and executed this 1st day of February 1991 at Lincoln, Lancaster County, Nebraska by:

Loran Schmit
SENATOR LORAN SCHMIT, AFFIANT

Before me a notary public in and for said county and state personally appeared Senator Loran Schmit, to me personally known, who executed the above document and acknowledged its veracity and was done for the purposes stated therein.

Dated and executed this 1st day of February 1991

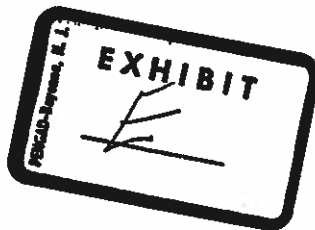
by: [Signature]
NOTARY PUBLIC



Creighton University Medical Center *School of Medicine*
University of Nebraska Medical Center *College of Medicine*



CREIGHTON-NEBRASKA DEPARTMENT OF PSYCHIATRY
2205 South 10th Street
Omaha, NE 68108
(402) 449-5047



Frank J. Menolascino, M.D.
Chairman

December 14, 1990

Honorable J. Patrick Mullen
District Court
Hall of Justice
Omaha, NE 68183

RE: Paul A. Bonacci
Docket #127, Page #193

Dear Judge Mullen:

This is in regard to the mental competency and ability to assist in his own defense of Paul A. Bonacci. I've had several contacts with Mr. Bonacci during the past 12 months. Initially, this was in my capacity as psychiatric consultant to the Douglas County Corrections Center. The initial concern was depression, but, after a few contacts, I discovered that we were dealing with a case of Multiple Personality Disorder. In April of this year, at the request of the court, I prepared a report regarding my evaluation of Mr. Bonacci as a possible Mentally Disordered Sex Offender; a copy of which I will enclose because it includes a review of his past history, as well as my opinion, and some observations about Multiple Personality Disorder.

Since preparing that report, I have had some additional contacts with Mr. Bonacci, including most recently a three-hour interview on November 17th. These more recent contacts involved interviews with some of the more mature, alternate persons in the body of Paul Bonacci. Altogether, there are 20 or more alternates, several of them well-formed, as much or more so, than Paul himself, but many others are immature child personalities who have limited awareness of recent events. There are significant differences in several of the different persons within the body. Some have capabilities or memories others do not possess. There are unusual differences in that some are color-blind and others are not. There are even a few little girls present.

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RE: Paul A. Bonacci
Docket #127, Page #193

Included with this report, for the interest and use of the court, is some literature on the subject of Multiple Personality Disorder which should be of value in understanding some of the unusual features of the multiple persons involved. As these reports will confirm, Multiple Personality Disorder is not a psychosis, although the differences in the capabilities and knowledge of each person involved in the single body can be significant. In your court procedure, we would probably be dealing chiefly with the personalities of Alexandrew or Michael or Alexander Michael or Paul or Christian or Joshua or Drew. Although varying in degree of knowledge, they are all rational and quite capable of understanding court procedure. The principal, mature persons involved will be able to assist in their own or Paul's defense.

The multiplicity of persons within the one body will create complications, and I have already determined, for example, that it was not Paul himself who was actually interviewed at the time of the Grand Jury investigation. At least three other persons were chiefly involved - initially Michael, and following the morning break it was Alexander Michael, and following the lunch break it was chiefly Alexandrew. This was all on the one day that Mr. Bonacci appeared before the Grand Jury.

During a court hearing involving Paul Bonacci, it will be important to identify who may actually be responding to questions presented, etc., but this should not be at all difficult to determine. If testimony is accepted from more than one person, it may be advisable to have them sworn individually.

Beverley T. Mead, M.D.
Professor of Psychiatry

BTM/mlm

enc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA

PAUL A. BONACCI,)
)
Plaintiff,)
)
vs.)
)
THE CATHOLIC ARCHBISHOP OF)
OMAHA, et al.,)
)
)
Defendants.)

4:CV91-3037

94 FEB -8 AM 9:00

MEMORANDUM AND ORDER ON
DEFENDANTS' WADMAN, HOCH,
AND BOVASSO MOTION TO DISMISS
BASED ON QUALIFIED IMMUNITY

NORBERT H. EBEL
CLERK

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Defendants Robert Wadman, Michael Hoch, and Kenneth Bovasso move this court for dismissal from this lawsuit based on the doctrine of qualified immunity. Filing 118. The plaintiff argues that the defendants are not entitled to qualified immunity. After careful review of the first amended complaint, filing 4, the motion to dismiss shall be stayed.

Although Rule 8(a) of the Federal Rules of Civil Procedure requires only general notice pleading, factual allegations must be pled with enough specificity that defendants are adequately apprised of what claims are before the court. In his first amended complaint, the plaintiff pleads that his constitutional and civil rights have been violated by defendants Wadman, Hoch, and Bovasso. This lawsuit cannot progress until plaintiff's counsel clearly allege exactly which of the plaintiff's constitutional and civil rights have been violated. Once the plaintiff has alleged specific constitutional and civil rights violations, then the defendants may move for dismissal on one or all claims based on qualified immunity.

In the event that the defendants move to dismiss the revised claims, plaintiff's counsel shall prepare an opposition brief which fully addresses the legal issues raised in the defendants' motion and accompanying brief. To date, the plaintiff's pleadings and briefs have been woefully prepared. Vague pleadings coupled with cursory letter-briefs constitute a disservice not only to the defendants and to this court, but most importantly to Mr. Bonacci. If Mr. Decamp and Mr. Sipple do not improve the quality of their legal work in this case, I shall consider imposition of appropriate disciplinary sanctions.

IT IS THEREFORE ORDERED that:

1. The defendants' motion to dismiss, filing 118, is stayed;
2. The plaintiff is granted ten days to file a second amended complaint, amending counts four and five of the first amended complaint, filing 4, and clearly alleging which constitutional rights, civil rights, and federal statutes have been violated; and

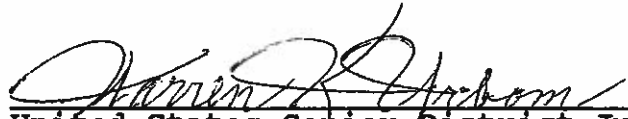
Copies mailed on 2-8-94

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3. The defendants are granted ten days from the filing of the plaintiff's second amended complaint to amend their motion to dismiss and brief in support thereof, if they so choose.

Dated February 7, 1994.

BY THE COURT


United States Senior District Judge

Filing #135 removed from file and
placed on back in vault

IN THE UNITED STATES DISTRICT COURT
 DISTRICT OF NEBRASKA
 FOR THE DISTRICT OF NEBRASKA

FILED
 DISTRICT COURT
 DISTRICT OF NEBRASKA
 93 DEC -7 PM 1:04 -129

PAUL A. BONACCI,

Plaintiff,

v.

THE CATHOLIC ARCHBISHOP OF
 OMAHA, et al.,

Defendants.

NORBERT H. EBEL
 CLERK

4:CV91-3037

MEMORANDUM AND ORDER

A conference was held on the morning of December 7, 1993 to resolve an objection that had been filed (filing 123) to the notice of plaintiff that the plaintiff personally wished to view the materials in the court's possession, which are the subject of restricted viewing. See, Order of November 19, 1993, filing 123. Present were counsel for plaintiff and defendant Citron as well as others from the office of the clerk, plaintiff, and an affiliate of plaintiff's counsel. Counsel for the other defendants had been notified by telephone of the conference.

Following the discussion and arguments of counsel, I conclude that the plaintiff himself should not, at least at this time, be permitted to view the materials. I acknowledge the position of plaintiff's counsel that, without plaintiff's participation, counsel cannot effectively identify the participants depicted in the materials. Nevertheless, at this point there is enough ambiguity over the plaintiff's various personalities and the court's ability to maintain control over the viewing in accordance with the earlier orders, that additional assurances will be required before I can confidently allow plaintiff's participation. I shall therefore not permit plaintiff to view the materials until further order, after a showing addressing the matters of:

- (a) maintaining the integrity and security of the materials;
- (b) whether the plaintiff is the only person who can identify participants depicted in the materials; and
- (c) assurances that can be made that all the plaintiff's personalities can be bound by the confidentiality provisions of the court's orders.

Some of these matters have apparently been addressed in the plaintiff's deposition, which is continuing. Once it has been completed and the parties have been given an opportunity to address these factors with additional evidence and briefs, I shall resolve the issue.

Copies mailed on 12-7-93

IT THEREFORE HEREBY IS ORDERED:

1. The plaintiff, Paul Bonacci, shall not be permitted to view the materials now held by the court under seal until further order of the court.

2. The plaintiff's deposition, when transcribed, shall be filed with the clerk, under seal, and directed to the attention of the undersigned.

3. The parties are given fourteen days following the filing of the plaintiff's deposition in which to file additional evidence relating to the issue of the plaintiff viewing the sealed materials, in the form of affidavits or otherwise. Such evidence may be filed initially under seal upon the filing party's request, subject to the court's review.

4. The parties are given fourteen days thereafter to submit to the undersigned their briefs on the matter.

Dated December 7, 1993.

BY THE COURT


United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA

93 DEC -7 PM 2:52-128

PAUL A. BONACCI,
Plaintiff,

)
) OBJECTION TO PLAINTIFF'S
) VIEWING MATERIAL CLERK
)

vs.

) #CV91-3037
)

THE CATHOLIC ARCHBISHOP OF OMAHA,
et. al.,
Defendants.

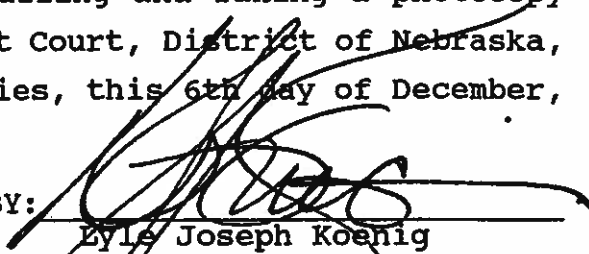
Now comes the Defendant, Peter L. Citron, through undersigned counsel, and objects to Plaintiff viewing any of the materials in the Court's possession for the reason that the Court's previous orders do not, implicitly or explicitly, allow viewing by the parties. No brief accompanies this objection for the reason that counsel for Mr. Citron only saw Plaintiff's request at 3:30 p.m. on this date, and therefore did not have time to prepare a brief. Moreover, it does not require a brief to point out that this Court's orders must be obeyed. Mr. Citron requests the right to assert future objections, supported by authority, since Plaintiff's request to view materials was only made the day before said viewing was to occur.

Peter L. Citron, Defendant

BY: 
His Attorney

CERTIFICATE OF SERVICE

This is to certify that I served the above and foregoing pleading on all parties herein by mailing and faxing a photocopy thereof to The United States District Court, District of Nebraska, Lincoln, NE and counsel for all parties, this 6th day of December, 1993.

BY: 
Lyle Joseph Koenig
Counselor at Law
P. O. Box 48
Hebron, NE 68370
(402) 768-7402

RECEIVED
DEC 17 1993
CLERK
US DISTRICT COURT
LINCOLN

file # 126 removed from file and
placed on a rack by wbn

#126

Filing #127 removed from file and
placed on a back in vault