MULHOLLAN DEPOSITION

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DIANE J. SCHROER, :
Plaintiff, :
v. : No. 05-CV-01090 (JR)
JAMES H. BILLINGTON, :
Defendant. :

Washington, D.C.
Thursday, March 13, 2008

Deposition of DANIEL P. MULHOLLAN, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to notice, the witness being duly sworn by DENNIS A. DINKEL, a Notary Public in and for the District of Columbia, taken at the offices of WilmerHale, LLP, 1825 Pennsylvania Avenue, N.W., Washington, D.C. at 9:32 a.m., Thursday, March 13, 2008, and the proceedings being taken down by Stenotype by DENNIS A. DINKEL, FAPR, CRR, and transcribed under his direction.

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refer to it as the terrorist specialist position. Okay?

Finally, the plaintiff in this case is Diane Schroer. At the time of the events in this case, Ms. Schroer went by the name David Schroer. So during this deposition, when I talk about Diane Schroer or Ms. Schroer, I'm referring to the person formerly known as David Schroer, okay?

A. Yes. Uh-huh.

Q. Did you review any documents in preparation for this deposition?

A. Not really.

Q. Were there any documents that you even glanced, if not spent any significant time on?

A. No.

Q. Did you create any notes in preparation for this deposition?

A. Let me see. Not to my recollection. I may have at some point, but I don't recall anything significant whatsoever.

Q. But for -- in preparation for today's deposition, did you prepare anything?

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A. This (indicating.)

Q. Okay. Is the information that's on this sheet that you've just handed me information that pertains to this case?

A. No. These were just notes I was taking for work going on today on the Hill.

Q. Got it.

A. Okay.

Q. Did you speak with anyone in preparation for this deposition?

A. Yes. My counsel.

Q. And who is that?

A. Kent Ronhovde, my counsel, counsel to my right from the Department of Justice, and counsel from the Library of Congress.

Q. Mr. Mulhollan is indicating Ms. Russell, Ms. Douds, and Mr. Rubiella.

A. I think there was a colleague, Lizanne Kelley at CRS.

Q. Anyone else?

A. Well, there are two other counsels on our legal team. They were present at one meeting. That

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was Diane Duffy and Douglas Warshof.

Q. Did you speak with anyone else?

A. Not to my recollection.

Q. In particular, anyone who is not part of your legal team?

A. No.

Q. Mr. Mulhollan, are you employed?

A. On occasion, yes.

Q. Who is your employer?

A. The United States Congress.

Q. And what is your title?

A. Director of the Congressional Research Service.

Q. And what are your job responsibilities?

A. To ensure the fact that Congress has objective, nonpartisan analysis on the legislation and deliberations before Congress.

Q. Anything else?

A. To ensure that, in fact, that the Congressional Research Service as an institution is there available to Congress, 24/7, in order to help Congress in its -- in the difficult decisions it has

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to make on a daily basis, both at committee and on the floor.

Q. With respect to the internal administration of the Congressional Research Service, are any of those tasks part of your job responsibilities?

A. They are -- I am responsible for the actions -- I mean, from -- that every person has with interactions with the Congress. Day-to-day operations are often the responsibility of my deputy or the deputy director.

Q. And who is that?

A. Her name is Angela Evans.

Q. Any other job responsibilities?

A. Of the director of the Congressional Research Service?

Q. Yes.

A. Well, the statute calls for maximum, practical administrative independence within the library, also calls for complete research independence.

Within the library itself, there are the

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I just -- my general recollection is there have been security matters in the past, in the last decade plus, where there have been security issues arising. But I am afraid I can't give you any specifics.

Q. Any general level of detail that you can recall?

A. The one that just popped in my mind was -- had -- had to do with someone who was -- whose -- who had family in an identified country that was problematic as far as security was concerned.

Unless it's -- you know, you're squeezing this out of the turnip. The selective elements I really do think would distort whatever picture that could be accurately provided, because I'm not fortunate enough to know. There were some security concerns somewhere down the line over the scores of individuals we've done in the last, you know, 14 years.

Q. In the case of this individual with family in a foreign country that raised concerns, was that applicant ultimately accepted for the position?

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A. No.

Q. Okay. With respect to these other cases that you're recalling in a general way, are there any documents that would refresh your recollection about these cases?

A. Not that I can think of. I mean -- look, if, in fact -- well, if you go through -- okay. This was this hire. This was this hire. This was this hire. But I don't see how fruitful that would be.

Q. In a case where an issue comes up in the course of the security clearance process that leads the selecting official to go with a different candidate, are there any documents that are produced to reflect that process?

A. They are may well be, but I'm not familiar with them.

Q. Is there any -- are there any documents that are created, to your knowledge, about the fact that security clearance concerns have arisen at all with respect to a leading candidate?

A. Again, I have to repeat my answer. There may well be, but I'm not familiar with them.

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Q. Who would be the person who would know what those documents are?

MS. RUSSELL: Objection to the form of the question. But you can answer.

THE WITNESS: Well, it would undoubtedly be the office of workforce development.

BY MS. McGOWAN:

Q. Anyone else?

A. The director of human resources of the Library of Congress.

Q. And who is that?

A. Dennis Hanratty. And presumably Cindy Wilkins.

Q. And who is Cindy Wilkins?

A. She's the head of the library security office.

Q. Anyone else?

A. I think those would be the appropriate offices to have that kind of documentation.

Q. Do you know a library employee named Charlotte Preece?

A. I mentioned her already, if you recall.

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Q. So how -- tell me how you know her?

A. Well, I selected her to be the head of foreign affairs, defense, and trade back in 1994.

Q. Were you the actual selecting official?

A. Correct.

Q. And what is your -- what is the nature of your professional relationship with Ms. Preece?

A. I'm sorry. You have to be more specific. The nature of the professional relationship --

Q. Do you interact with Ms. Preece in your capacity as director of CRS?

A. Yes.

Q. What is the nature of that interaction?

A. You asked the same question again, and I have to ask you to clarify it.

Q. In a day-to-day way, how do your work responsibilities interact with Ms. Preece's work responsibilities?

A. Well, if you recall, it would be on the same pattern as with any of the other assistant directors.

And that is that it can be -- a week can

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go by, where we wouldn't have any discussion, except at the research policy council meeting. The research policy council meeting usually meets on Friday and on occasion -- with some regularity on Tuesdays as well.

Currently, we have a meeting about -- as of today, here's the pattern. Because there's been a change. Wasn't even called the research policy council back in ancient days, 1994.

But the relationship between -- Charlotte and my relationship is I don't believe any different than any other assistant director.

And we would -- will now meet at 9:30 on Monday to talk about what is happening in the Congress this week, what measures are coming, what hearings are we involved in. Everyone reports for about seven minutes.

What hearings are involved, who's testifying, if CRS staff is testifying, what's happening on the floor, how are we engaged. And when we are not engaged in a major hearing, why not. That sort of thing.

Then we will meet on -- with regularity on

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Friday at 9:30, usually 9:30 to 11:30 on operational issues on a whole range of matters. That's probably the major -- on occasion, I will have a meeting of about a half hour duration every couple of weeks with all the assistant directors, talking about what problems are going on in the division.

That's just recently started. I stopped that for some hiring -- because we had some hiring priorities. So -- a section research manager. That's been put on hiatus until all those hires are made.

Q. Did you know her prior to 1994?

A. Yes. Because she's been in CRS prior to 1994.

Q. How did you know her?

A. She was a colleague within the service.

Q. Do you know what position she held prior to becoming --

A. She may have been a section head, I don't recall.

Q. Did she directly report to you prior to her taking on her current position?

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A. No. The division she was in was then known as foreign affairs and national defense. Her area of expertise was national defense.

Q. Today we are talking about primarily the hiring process for the terrorism specialist position which took place roughly through the period July through December of 2004.

During this period of time, did anyone inform you that the terrorism specialist position needed to be filled?

A. Yes.

Q. Who informed you of that?

A. I can't remember, Sharon. You're not asking, but I'll give you the context anyway. If you recall, in July of 2004, the 9-11 Commission's recommendations came out.

Q. Uh-huh.

A. By December of 2004, the first major terrorism act and the government reform took place with the national -- with the creation with the creation of the National Director of Intelligence.

It was a very intense time. So I was

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paying attention to it -- not that position specifically. But paying attention to the division's capacity to deal with this.

In December of 2004, it was enacted. Negroponte -- in April was the confirmation. CRS was involved in writing questions for the committees and helping them out on a continuing basis.

So I was just concerned that the service had the capacity to help in a high profile important issue. That's my recollection.

Q. During this period of time, did Charlotte Preece come to you and say, I need to fill the terrorist specialist position?

A. I do not recall if she came to me or this was something through Bessie Alkisswani. I do have vague recollection that this -- basically, telling her get this position filled, and do what you need to do to get it filled.

But not even -- I don't know if I was that kind of dramatic about it. But at the same time, there was -- it was -- Charlotte knew that this was an important area to be filled. And there

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were -- I had gone back in 2002 and asked for actually 10 different kinds of competencies. Five had to do with aging, like gerontology. The others were aspects of cyberterrorism, epidemiology, and one -- terrorism experts.

There was that competency that we had asked for, so it had that sufficient profile. I wanted to make sure -- Congress gave us additional money to have that competency to be filled in. And then there were those circumstances.

To that degree, I paid attention. I relied upon Charlotte to fill those needs.

Q. You mentioned that you have -- it says, I do have a vague recollection of telling her that this needed to be filled.

A. I don't --

Q. I just wanted to be sure I knew who the "her" is.

A. I'm not sure. I do not recall how that priority was conveyed. It doesn't -- no offense to anyone here. It doesn't take a rocket scientist to understand, given the circumstances that was going on

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at the time, that it was a priority position for the service. And Charlotte knows her job.

Q. Did you convey any of this in writing?

A. I don't think so. I do not recall if there was any documentation on this. I suspect not. I suspect that it was, you know, just -- how it had been conveyed, I have some recollection that it was -- might have been to Bessie, that that would be -- you know, there were other hires in places. Add another hire. I don't know if I was the one who said that, but I know that that occurred. I take credit for good things.

Q. Did you state anything specifically about steps that could be taken to make sure that the position was filled quickly?

A. Not to my recollection. I traditionally wouldn't get involved in that.

Q. Other than what we talked about, what else can you tell me about the need to fill this position?

A. Other than what I just said?

I think that in addition, there was the Homeland Security Department, the debate that was

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going on with Homeland Security, the concept in one form or the other.

We were just mindful of -- the priority activities I had talked about -- because there were a number of 9-11 Commission recommendations that were not taken up in the December 2004 legislation.

And -- which are being discussed this second session of the 110th, continue to be. There were a lot of issues surrounding that, that we were involved in as well.

And we got some unwanted but -- attention with regard to, you know, the Patriot Act, the service's legal analysis of that, but -- subsequently.

But what I just laid out, I think would encompass the primary components of the -- my anxiety with regard to ensuring that Congress had the help it needed.

Q. Did you have any discussion with anyone about how quickly the position could be filled?

A. No.

Q. Is there a specific hiring cycle for CRS,

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by which I mean certain rules about when positions in normal circumstances can be posted?

A. We have a hiring plan. And it ties in to what I described earlier with regard to succession planning.

So that if you have two of the six people in natural resources saying they are going to retire in April 2009, we are trying to fill those positions to timeline it with when those people are departing.

And they may put up a hire -- but we have always been open to placing a priority and what we -- you know, as the top priority when someone departs that you hadn't expected, and they are in a high profile issue.

Q. Was that the case for the terrorism specialist position?

A. That's my understanding.

Q. And anything else you can tell me about how you came to that understanding about the position?

A. All I can tell you is that the average tenure in CRS is 15.5 years. The average tenure of