

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JASON LEOPOLD,
BUZZFEED INC.,

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE, et al

Defendants.

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Civil Action No. 19-cv-1279 (TJK)

PLAINTIFFS' EMERGENCY MOTION FOR COURT ORDER REQUIRING
DEFENDANTS TO REPROCESS RECORDS BEFORE THE NOVEMBER 3, 2020
PRESIDENTIAL ELECTION IN LIGHT OF THE PRESIDENT'S RECENT
DECLASSIFICATION AND WAIVER

This Freedom of Information Act case involves various records from the Mueller investigation. The government has redacted or withheld a variety of records based on a variety of exemptions. While some of these withholdings result from statutes that prohibit release, many are discretionary and can therefore be waived.

On October 6, 2020, the President of the United States directed that all documents pertaining to investigations into Russian interference in the 2016 election, which includes the Mueller investigation, be released to the public, and stated that he had, in fact, previously ordered this be done. Twitter, @realDonaldTrump, Oct. 6, 2020 at 8:41pm ("I have fully authorized the total Declassification of any & all documents pertaining to the single greatest political CRIME in American History, the Russia Hoax. Likewise, the Hillary Clinton Email Scandal. No redactions!"); Twitter, @realDonaldTrump, Oct. 6, 2020 at 9:21pm ("All Russia Hoax Scandal information was Declassified by me long ago. Unfortunately for our Country, people have acted very slowly, especially since it is perhaps the biggest political crime in the history of our Country.

Act!!!”) (attached as Group Exhibit A). As a result, (1) Exemption 1 no longer applies because the records are no longer classified, and (2) any FOIA exemptions have been waived with the exception of disclosures prohibited by the Privacy Act, Rule 6(e), or other statutes that prohibit release.

As a result, Plaintiffs ask the Court to order the government to reprocess the 302s to remove all redactions or withholdings based on Exemption 1 or any discretionary exemptions like Exemption 5, by October 28, 2020. This should be a simple process that requires no independent analysis or consultation beyond simply reviewing which exemptions were asserted and removing the applicable redactions based solely on which exemption claimed.

Due to the impending election and importance of this issue, Plaintiffs have filed this motion on an emergency basis. The parties have conferred, and the government has indicated that it will oppose. Plaintiffs respectfully request that the Court order the government to file any opposition by Monday, October 12, 2020, and schedule a hearing for the earliest available date thereafter so that the motion may be resolved and any order complied with before the November 3, 2020 election.

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

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Counsel for Jason Leopold and BuzzFeed
Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| JASON LEOPOLD, |) | |
| BUZZFEED INC., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Civil Action No. 19-cv-1279 (TJK) |
| v. |) | |
| |) | |
| U.S. DEPARTMENT OF JUSTICE, et al |) | |
| |) | |
| Defendants. |) | |

PLAINTIFFS' EMERGENCY MOTION FOR COURT ORDER REQUIRING
DEFENDANTS TO REPROCESS RECORDS BEFORE THE NOVEMBER 3, 2020
PRESIDENTIAL ELECTION IN LIGHT OF THE PRESIDENT'S RECENT
DECLASSIFICATION AND WAIVER

This Freedom of Information Act case involves various records from the Mueller investigation. The government has redacted or withheld a variety of records based on a variety of exemptions. While some of these withholdings result from statutes that prohibit release, many are discretionary and can therefore be waived.

On October 6, 2020, the President of the United States directed that all documents pertaining to investigations into Russian interference in the 2016 election, which includes the Mueller investigation, be released to the public, and stated that he had, in fact, previously ordered this be done. Twitter, @realDonaldTrump, Oct. 6, 2020 at 8:41pm ("I have fully authorized the total Declassification of any & all documents pertaining to the single greatest political CRIME in American History, the Russia Hoax. Likewise, the Hillary Clinton Email Scandal. No redactions!"); Twitter, @realDonaldTrump, Oct. 6, 2020 at 9:21pm ("All Russia Hoax Scandal information was Declassified by me long ago. Unfortunately for our Country, people have acted very slowly, especially since it is perhaps the biggest political crime in the history of our Country.

Act!!!”) (attached as Group Exhibit A). As a result, (1) Exemption 1 no longer applies because the records are no longer classified, and (2) any FOIA exemptions have been waived with the exception of disclosures prohibited by the Privacy Act, Rule 6(e), or other statutes that prohibit release.

As a result, Plaintiffs ask the Court to order the government to reprocess the 302s to remove all redactions or withholdings based on Exemption 1 or any discretionary exemptions like Exemption 5, by October 28, 2020. This should be a simple process that requires no independent analysis or consultation beyond simply reviewing which exemptions were asserted and removing the applicable redactions based solely on which exemption claimed.

Due to the impending election and importance of this issue, Plaintiffs have filed this motion on an emergency basis. The parties have conferred, and the government has indicated that it will oppose. Plaintiffs respectfully request that the Court order the government to file any opposition by Monday, October 12, 2020, and schedule a hearing for the earliest available date thereafter so that the motion may be resolved and any order complied with before the November 3, 2020 election.

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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| JASON LEOPOLD and BUZZFEED INC., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Case No. 19-cv-957 (RBW) |
| v. |) | |
| |) | |
| U.S. DEPARTMENT OF JUSTICE, et. al., |) | |
| |) | |
| Defendants. |) | |
| | | |
| ELECTRONIC PRIVACY INFORMATION |) | |
| CENTER, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Case No. 19-cv-810 (RBW) |
| v. |) | |
| |) | |
| U.S. DEPARTMENT OF JUSTICE, et. al., |) | |
| |) | |
| Defendants. |) | |

**EMERGENCY MOTION OF PLAINTIFFS JASON LEOPOLD AND BUZZFEED, INC.,
FOR COURT ORDER REQUIRING DEFENDANTS TO REPROCESS THE MUELLER
REPORT BEFORE THE NOVEMBER 3, 2020 PRESIDENTIAL ELECTION IN LIGHT
OF THE PRESIDENT’S RECENT DECLASSIFICATION AND WAIVER**

This Freedom of Information Act case involves the Mueller Report. Defendant DOJ has redacted or withheld a variety of records based on a variety of exemptions. While some of these withholdings result from statutes that prohibit release, many are discretionary and can therefore be waived. This Court has repeatedly recognized the importance of these records to the November 3, 2020 election.

On October 6, 2020, the President of the United States directed that all documents pertaining to investigations into Russian interference in the 2016 election, which includes the Mueller investigation, be released to the public, and stated that he had, in fact, previously ordered this be done. Twitter, @realDonaldTrump, Oct. 6, 2020 at 8:41pm (“I have fully authorized the total Declassification of any & all documents pertaining to the single greatest political CRIME in American History, the Russia Hoax. Likewise, the Hillary Clinton Email Scandal. No redactions!”); Twitter, @realDonaldTrump, Oct. 6, 2020 at 9:21pm (“All Russia Hoax Scandal information was Declassified by me long ago. Unfortunately for our Country, people have acted very slowly, especially since it is perhaps the biggest political crime in the history of our Country. Act!!!”) (attached as Group Exhibit A). As a result, any FOIA exemptions have been waived with the exception of disclosures prohibited by the Privacy Act, Rule 6(e), or other statutes that prohibit release.

As a result, Plaintiffs ask the Court to order the government to reprocess the Report in light of this waiver. This should be a simple process that requires no independent analysis or consultation beyond simply reviewing which exemptions were asserted and removing the applicable redactions based solely on which exemption claimed.

Due to the impending election and importance of this issue, Plaintiffs have filed this motion on an emergency basis. The parties have conferred, and the government has indicated that it will oppose. Plaintiffs respectfully request that the Court order the government to file any opposition by Monday, October 12, 2020, and schedule a hearing for the earliest available date thereafter so that the motion may be resolved and any order complied with before the November 3, 2020 election.

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

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