

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

EARL WASHINGTON, JR.,) CASE NO. 3:02CV0106
Plaintiff)
v.) ORDER
KENNETH H. BURAKER, ET AL.,) By: B. Waugh Crigler
U. S. Magistrate Judge
Defendants)

This action is before the undersigned on the July 27, 2005 motion filed by the Attorney General of Virginia to modify a subpoena *duces tecum* seeking the production of documents possessed by the Office of the Attorney General (OAG) as set forth in the subpoena. The Attorney General produced some information, most particularly the “McLees-Wilmore Memo” concerning the Washington file, but has objected to producing other documents, filed *in camera*, on the grounds of attorney-client privilege or work product. Both sides have now briefed the issues.

Having considered the contentions and authorities offered by both sides, it is

ORDERED

as follows:

1) The Attorney General’s July 27, 2005 motion hereby is GRANTED, in part, for the reasons set forth in her August 26, 2006 Memorandum. The motion also, is DENIED, in part for the reasons set forth in plaintiff’s Reply Memorandum filed on September 9, 2005 as to the following documents, copies of which were filed *in camera*:

- a) From Tab #2, two (2) documents entitled “Evidence of Earl Washington Guilt”
- b) Tab #3, Portion of Memo to Rosenthal from Marshall dated May 19, 1993 entitled “Trial Evidence”; portion of Memo to Rosenthal from Marshall dated May 21, 1993 entitled “II. Evidence for Conviction.”
- c) Tab # 4, portion of Interoffice Memorandum to Early from Curry, dated February 4, 2000 p. 1 and the first 3 paragraphs of p. 2. (duplicated in Tab #32 and #33).
- d) Tab #17, Memorandum to Rosenthal from McLees dated October 28, 1993.
- e) Tab #31, Handwritten notes entitled “Hart & Wilmore”?
- f) Tab #32, in its entirety except (i) Interoffice Memorandum to Early from Curry dated February 4, 2000 - a portion already ordered produced, (ii) Memorandum to Slonaker from McLees dated May 19, 1993, (iii) Memo to Guthrie from Marshall dated May 26, 1993 and to Slonaker from McLees dated May 26, 1993, (iv) Memo to Rosenthal from McLees dated July 13, 1993 and the attachment thereto dated July 14, 1993, Memorandum to Rosenthal from McLees dated July 19, 1993.
- h) Tab #34, only the final starred paragraph on page 1 and continuing to page 2.
- I) Tab #37 in its entirety as Washington is entitled to materials in his own

attorney's file.

2. Disclosure of these items is to be made within eight (8) days hereof unless such disclosure is stayed by the presiding District Judge.

The Clerk of the Court is hereby directed to send a certified copy of this Order to all counsel of record.

ENTERED: _____
Magistrate Judge

Date