

**From:** Bruce Barket [REDACTED]

**To:** [REDACTED]

**Cc:** Aida Leisenring [REDACTED]

Tony Ricco [REDACTED]

BRUCE

KOFFSKY [REDACTED]

John Diaz [REDACTED]

**Subject:** Re: New mcc problems

**Date:** Fri, 17 Jan 2020 17:07:05 +0000

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Thank you for the quick reply. I understand your position regarding communicating with all counsel of record. I assume that means your office won't be having separate communications (written or oral) with just appointed counsel.

1. As I indicated, we will be filing a motion asking for an order allowing inspection of the location our client has been detained for what will likely be 4 years by the time the case is tried. Being able to present mitigating evidence to prevent Nick's execution is a "specific and pressing reason," at least in our view. We are happy to work with the BOP on reasonable conditions for the visit.
2. I will wait to hear from her. Thanks for helping to move this alone.
3. Thank you for the update on the hearing situation. I appreciate it. Knowing what the current situation is matters as does being to able to report back to the clients who brought the problem to my attention.
4. This is a bit of a problem. I have been writing these emails since August. I do not think I should have to spell out how a requested visit helps in the preparation of the defense or how it will help our mitigation case. The tension between having a record made justifying the exception against our right not to spell out the details of our strategy was address back in August during a call that included [REDACTED]. At that time we reached an agreement and we haven't had a problem until now. The requests have been no more than once a month or so and usually around court dates. We don't want to add to our workload or yours, but we can't have our client go months without seeing family as we prepare for a death penalty trial. Nor can provide the new level of detail being sought. Any further help you can provide would greatly appreciate.

Bruce Barket  
Barket, Epstein, Kearon, Aldea & LoTurco  
666 Old Country road  
Garden City, NY 11530  
[REDACTED]

Barket Epstein.com

> On Jan 17, 2020, at 11:27 AM, [REDACTED] wrote:  
>  
> Bruce,  
>  
> Thanks for raising these issues with us in advance of the conference. We appreciate the opportunity to try and address them with MCC in advance. Below are responses based on our conversation with [REDACTED] and we have copied all counsel because until Judge Karas instructs us otherwise, we intend to communicate with all counsel of record.  
>  
> 1 - [REDACTED] has advised us that allowing a tour of this kind is a security risk for the institution because, among other things, you have asked to tour areas where many inmates will be, and the institution cannot be locked down

for purposes of an outside person taking a tour absent a very specific and pressing reason. [REDACTED] also advised that were the Court to order such a tour, MCC would set very specific conditions and ask that the Government also be present.

>

> 2 - [REDACTED] has advised that she is working with SIS to get a date and time for the inspection of physical evidence, and hopefully will be reaching out today to schedule the inspection.

>

> 3 - [REDACTED] has advised that upon receiving your email, she had her staff speak with [REDACTED] about the heat. The staff took heat reports in the unit and found the temperature was high. The staff made adjustments and there have not been complaints since. We have asked for another temperature reading to be taken in the unit before Wednesday's conference to ensure the temperature is at an acceptable level.

>

> 4 - [REDACTED] has advised that she asked you for additional information that she can discuss with the Warden in order to assess the request for a family visit, but has not heard back from you. As previously discussed, in order for the MCC to make an exception for your client, a social visit must be necessary for preparation of the defense. The Government is not trying to, nor does it want to be, in the middle of that assessment, but we understand from the MCC that your most recent request was conclusory and they need more detail to make an assessment of this new request.

>

> [REDACTED]  
> Co-Chief, Narcotics Unit  
> [REDACTED]

>

> -----Original Message-----

> From: Bruce Barket [REDACTED]  
> Sent: Thursday, January 16, 2020 11:43 AM  
> To: [REDACTED]

> Cc: Aida Leisenring [REDACTED]  
> Subject: New mcc problems

>

> In case we don't have enough to do on the 22nd, I intend to raise several issues about the jail. In no particular order;

>

> 1. They are refusing to allow us to view the cells and common areas where Nick has been held for nearly 3 years. Initially, we were told we would be permitted and that photographs would be taken and reviewed by the staff. We are going to file a motion to compel before the 22nd.

>

> 2. I have written multiple emails to [REDACTED] asking for an opportunity to view the physical evidence for the July 23rd suicide attempt. She has thus not responded at all

>

> 3. We wrote complaining about multiple reports of extreme heat on the tier. One or two inmates had to be hospitalized. We have not been given an update.

>

> 4. We asked for a family visit after next week's court appearance and gave the same reasons we have been giving. This time we were asked for more detail. I sense a change in the mcc approach. My inclination is to ask the judge to help here.

>

> I was hoping the new administration would improve the conditions while maintaining [REDACTED] responsiveness.

>

> Bruce Barket

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