

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

ESTATE OF KENNETH MICHAEL)	
TRENTADUE, <i>et al.</i> ,)	
)	
Plaintiffs,)	Case Number: 97 849 L
)	
vs.)	
)	
UNITED STATES OF AMERICA, <i>et al.</i> ,)	
)	
Defendants.)	

PLAINTIFFS' COMBINED MOTION TO COMPEL PRODUCTION OF FIVE (5)
DOCUMENTS BEING WITHHELD UNDER CLAIMS OF
WORK PRODUCT AND/OR DELIBERATIVE PROCESS PRIVILEGES BY
THE UNITED STATES DEPARTMENT OF JUSTICE AND
SUPPORTING MEMORANDUM

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2/19

MEMORANDUM IN SUPPORT OF MOTION TO COMPEL
PRODUCTION OF MAIN JUSTICE DOCUMENTS

It is important to note, that none of these Main Justice documents is being withheld under a claim of attorney-client privilege. The five (5) Main Justice documents which counsel for the United States Defendants claim to be privileged from discovery can actually be divided into the following two groups or categories: (1) four documents being withheld upon the basis of both work product and deliberative process; and (2) one document being withheld solely upon the basis of deliberative process. These five (5) documents, as they are described in the United States Defendants' *Privilege Log*, are identified below, and each document description is followed by an analysis of both its relevance to this lawsuit and the facts that make that particular document discoverable despite the assertions of work product and/or deliberative process privileges.

DOCUMENT NO. 1

DATE CREATED	SENDER/ CREATOR	RECIPIENT	TYPE	PRIVILEGE
3/13/96	Roger Adams, Counsel to the Deputy Attorney General	Dennis Corrigan, Chief of Staff for the Deputy Attorney General and Jamie Gorelick, Deputy Attorney General	Memorandum containing analysis, advice and opinions regarding the events that transpired at the Federal Transfer Center with regard to Kenneth Michael Trentadue, which references a 3/7/96 memorandum from Kathleen Hawk, Director, Federal Bureau of Prisons, to the Attorney General relating said events, including analysis and opinions, which references a 2/26/96 letter from Fred Jordan to Patrick Ryan, U.S. Attorney,	Attorney work product and deliberation process

Western District of Oklahoma
regarding said events.

ANALYSIS: This *Memorandum* was written before Plaintiffs had even filed a *Federal Tort Claim Notice* with respect to the death of Kenneth Michael Trentadue. Thus, it could hardly have been written in anticipation of litigation with the Plaintiffs. It was also written at the time that the United States Department of Justice, under the direction of Attorney General Janet Reno, was supposedly investigating the death of Kenneth Michael Trentadue. This document was, in other words, prepared as part of Main Justices usual and regular course of business. Unlike the Plaintiffs, Main Justice had access to all of the evidence and witnesses surrounding the death of Kenneth Michael Trentadue. Moreover, this *Memorandum* was written within six months of Kenneth Michael Trentadue's death and apparently contains a detailed summary or factual analysis of what happened to Kenneth Michael Trentadue at the Federal Transfer Center while that event was still fresh in the minds of the witnesses.

DOCUMENT NO. 2

DATE CREATED	SENDER/ CREATOR	RECIPIENT	TYPE	PRIVILEGE
1/28/97	Lisa Winston Special Assistant to Deputy Attorney General	None	Hand-written notes regarding <u>a meeting</u> <u>among the attorneys</u> <u>from the Civil Rights</u> <u>Division and the</u> <u>Torts Branch regarding</u> <u>the Trentadue matter,</u> discovery, the release of grand jury materials, and other issues raised in this litigation.	Attorney work product and deliberative process privileges

ANALYSIS: These notes were taken during a meeting between Civil Rights Division and

Torts Branch attorneys regarding the defense of Plaintiffs' yet to be filed lawsuit. Incredibly, this meeting took place many months before Plaintiffs filed their lawsuit. More incredible still, this was a meeting between the Civil Rights Division attorneys charged with investigating Kenneth Michael Trentadue's death, including prosecuting those responsible, and Torts Branch attorneys whose responsibility it would be to defend the Government against any claims the Plaintiffs might bring arising out of Kenneth Michael Trentadue's death. The fact that this meeting took place is direct evidence supporting Plaintiffs' contention that the federal grand jury supposedly "investigating" Kenneth Michael Trentadue's death was a sham designed to cover up and conceal a murder.

Plaintiffs emphasize that the existence of notes of such a meeting between the Civil Rights Division and the Torts Branch of the Department of Justice is incredible because it shows a direct link between these two divisions of the Department of Justice regarding the latter's defense of Plaintiffs' lawsuit, which is something that counsel for United States Defendants have denied repeatedly. Having denied that the Civil Rights Division attorneys were, directly or indirectly, involved with assisting Torts Branch attorneys in defending the United States Defendants from possible claims by Plaintiffs, United States Defendants should be precluded as a matter of law for asserting the work product privilege.

These notes, which clearly evidences improper and Plaintiffs' believe an illegal linkage between the Civil Rights Division and the Torts Branch of the Department of Justice are directly relevant to Plaintiffs' conspiracy and civil rights violation claims, including their allegations that the Grand Jury investigation into the circumstances of Kenneth Michael Trentadue's death was a "sham . . . designed and intended to ensure that Kenneth Michael Trentadue's would be labeled a suicide, that no agent or employee of the DOJ would ever be charged or prosecuted for that