

EXHIBIT B

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

GAWKER MEDIA, LLD, et	:	
al.,	:	
	:	
Plaintiff,	:	
	:	CIVIL 8:15-cv-1202-T-
	:	NO.: 24EAJ
vs.	:	
	:	DATE: July 2, 2015
	:	
FBI, et al.,	:	TIME: 9:00 a.m.
	:	
Defendant.	:	PAGES: 1 - 94
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TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE SUSAN C. BUCKLEW
UNITED STATES DISTRICT JUDGE

Court Reporter: Lynann Nicely, RPR, RMR, CRR
Official Court Reporter
801 N. Florida Avenue
Suite 13B
Tampa, Florida 33602

Proceedings recorded and transcribed by computer-aided
stenography.

1 this is the video, and there is a different document
2 that has been produced to me this is the audio of us
3 listening to the video, that are different.

4 And I'm not suggesting -- look, I don't want
5 to impugn anybody at the FBI or in the U.S.
6 Attorney's Office or in Winchester, Virginia where
7 they review them, or anywhere else, right --

8 THE COURT: You are.

9 MR. BERLIN: Well, I'm not trying to do that
10 deliberately, I'm just trying to say that at the end
11 of the day we were not getting -- there's a question
12 about the integrity of the documents that we got.
13 And it is over a key portion of audio footage that
14 if you were to review the documents that were
15 provided to you in your chambers, you would see is
16 something that in my judgment Mr. Bollea has used
17 the arms of the federal grand jury to try and
18 suppress, and that I didn't know -- I didn't know
19 that the FBI was in the business of doing that.

20 THE COURT: Of doing what?

21 MR. BERLIN: Of trying to -- of essentially
22 trying to use arms of the federal government to help
23 people -- you know, we've all done or said things
24 that we wished we hadn't. But I didn't know you
25 could down to your local FBI office and say hey, can

1 you prosecute this or investigate this to try and
2 keep that from coming out. And that is what I think
3 is going on here and that is wrong.

4 THE COURT: Well, I would be very surprised if
5 that's what's going on here. I realize why it's in
6 your best interests to say something like that, but
7 I would be very surprised to say that's going on.

8 MR. BERLIN: Look, all I know, right, and some
9 of this requires some review of the records to be
10 able to say more than I can say in court because the
11 substance of this is I've got my hands tied so I'm
12 dancing a little bit here.

13 But the bottom line is it was very concerning
14 to me and to Gawker to get a DVD -- to get three
15 DVDs produced where one was supposed to have an
16 encounter on it and only had a minute and 14 seconds
17 of empty bed, and one had an audio track that was
18 duplicated from another video at a key moment, and
19 then third to get an audio CD where you can hear
20 that same DVD with a different audio and they're
21 listening to it. Coupled with, right, testimony in
22 our state court case where both Mr. Bollea and
23 Mr. Houston denied ever having looked at those
24 videos.

25 So this is really like I don't -- what I'm

1 forth, so we've used that process. And then at some
2 point there is no prosecution. At some point we
3 know from last week there is now another
4 investigation by a state agency which last week was
5 grounds for asserting a law enforcement exemption,
6 this week it wasn't.

7 You know, there are a number of things here
8 where -- and even apart from Gawker's interest as a
9 litigant, Gawker's interest as a news organization,
10 having spent a lot of money to get to this point,
11 has an interest in understanding, okay, how is the
12 government operating. And that's what the point of
13 the public interest part of this --

14 THE COURT: Say that again. Because I was
15 going to ask you to please tell me what the public
16 interest is again. What do you -- what are you
17 saying is the public interest?

18 MR. BERLIN: The public interest -- in general
19 in the cases when you get to this point, putting
20 aside -- I'm making you the first point that a lot
21 of this is not private, right, so there is a privacy
22 balance against that.

23 But when we get to the public interest prong,
24 right, the main point of FOIA is to allow the public
25 to understand how the government is operating.

1 THE COURT: I agree with that. But that's not
2 your reason for doing it.

3 MR. BERLIN: There is a difference between why
4 we originally came here and what we're ultimately
5 trying to find out. When I came here 18 months ago
6 when I filed FOIA request or had Mr. Thomas file a
7 FOIA request, it was to get statements by Mr. Bollea
8 and if there was any documentary evidence to get
9 that. Right. This is basic discovery for a
10 lawsuit.

11 We now have a situation where over the course
12 of that time we now have a situation where we know a
13 lot about it and we -- at least Gawker as a news
14 organization is left scratching its head saying how
15 is this that the government is operating. And maybe
16 there is good and valid reasons, but the whole point
17 of this statute is to be able to scrutinize those
18 reasons.

19 THE COURT: I realize that and I realize what
20 FOIA is and I realize the purpose of the statute and
21 I think I said when we were here last, that's really
22 not your purpose and I'm not sure that it's my job
23 at this point to evaluate why you make a FOIA
24 request. So I really -- the government raised the
25 fact you're doing it for litigation purposes, but

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Gawker's Lawyer Implies Government Possibly Altered Hulk Hogan Sex Tapes

Meanwhile, in a separate court hearing Thursday, the July 6 sex tape trial pitting the wrestling legend against the media site was postponed. No new date was set.

Original posted on Jul 7, 2015 at 11:41 am
Updated on Jul 7, 2015 at 11:41 am

 **Mary Ann Georgantopoulos**
BuzzFeed News Reporter

 **Tom Namako**
BuzzFeed News Reporter

 Reporting From
St. Petersburg, Florida



Michael Dorige/AFL Media / Getty Images

Lawyers for Gawker — which is in a legal battle with wrestler Hulk Hogan over its publication of his sex tape — implied in a federal court in Florida on Thursday that the federal government may have altered one of three DVDs of the encounter.

Hogan, whose real name is Terry Bollea, is suing Gawker for \$100 million in damages in Pinellas County court for publishing a portion of the sex tape between him and Heather Clem, the wife of his friend, Bubba The Love Sponge Clem.

The alteration issue came up in a separate federal court hearing on Thursday discussing Gawker's obtaining three videos shot before and during the encounter through Freedom of Information laws.

Hogan appears to have asked the FBI to investigate how his sex tapes were

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- German lawmakers have voted to move ahead with a Greek bailout deal. Germany's approval was one of the final steps needed before negotiations can begin on the details of the \$96 billion bailout package.
- James Holmes has been found guilty of murder in the 2012 Colorado theater shooting. He could be sentenced to death.

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made public, according to the transcript.

Gawker lawyer Seth Berlin said he recently viewed the three tapes and compared them to transcripts of the tapes created while they were supposedly in FBI possession. When Berlin watched the tape later, a portion didn't match up to the transcripts, he told the judge.

"There is something that is particularly of sensitive and of interest to us in the case and that is the portion that has been overdubbed," he said, "So we have two CDs with two different video and for a portion of it the audio is the same."

"I want to understand how it is that between that moment when the FBI took possession of those DVDs and when I saw those tapes...on Tuesday, that audio got changed," Berlin said, adding that "it smells like bad fish."

When Berlin said he wasn't trying to "impugn anybody at the FBI or in the U.S. Attorney's Office," the judge shot back "you are."

Berlin then implied that Hogan may have worked with the FBI in some way.

"In my judgment Mr. Bollea has used the arms of the federal grand jury to try and suppress [evidence]," Berlin said. "I didn't know that the FBI was in the business of doing that."

"Of doing what?" the judge asked.

"Of trying to — of essentially trying to use arms of the federal government to help people," Berlin said. "I didn't know you could down to your local FBI office and say hey, can you prosecute this or investigate this to try and keep that from coming out. And that is what I think is going on here and that is wrong."

The judge replied, "Well, I would be very surprised if that's what's going on here. I realize why it's in your best interests to say something like that, but I would be very surprised to say that's going on."

Hogan's lawyer, Charles Harder, told BuzzFeed News, "Gawker accused Mr. Bollea today of being 'in cahoots' with the FBI. Nothing could be further from the truth. The accusation is 100% false and outrageous. Gawker clearly is desperate and making up lies to try to cover up its own illegal activity."

The FBI didn't immediately return a request for comment.

The federal prosecutor, Kenneth Stegeby, explained that there were two different types of video files, and that officials has a hard time redacting one of those types of files in order to comply with privacy laws.

In one video, he said, officials' "only option was to redact both the video and the audio and that is why the FBI left one minute and I believe 14, 15 seconds or so, and it's only of the bed, there are no people there."

"We have inquired of the FBI for more information about it, so we're pushing hard to figure out what's going on with this," Stegeby said.



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The Head Of The Nation's Largest LGBT Rights Group On What Comes Next

"OK. All right," the judge said, adding it seemed like something they could "work out."

Here's a transcript of today's proceedings:

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1 IN THE UNITED STATES DISTRICT COURT
 2 MIDDLE DISTRICT OF FLORIDA
 3 TAMPA DIVISION

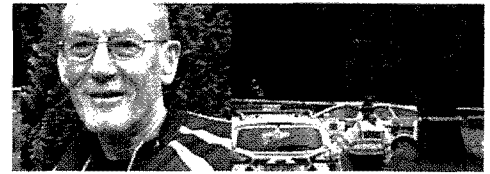
4 GAWKER MEDIA, LLD, et :
 5 al., :
 6 Plaintiff, :
 7 vs. : CIVIL 8:15-cv-1202-T-
 8 : NO.: 24EAJ
 9 FBI, et al., : DATE: July 2, 2015
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 11 : PAGES: 1 - 94

12 -----

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 14 BEFORE THE HONORABLE SUSAN C. BUCKLEW
 15 UNITED STATES DISTRICT JUDGE

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Meanwhile, an appeals court in Florida ruled in a 3-0 decision on Thursday to postpone the scheduled trial.

The trial was set to begin on Monday, July 6. No replacement date has been set.

The issue appears to stem when notice was served about the trial's start. From the opinion filed Thursday:

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Gawker defendants emphatically opposed setting the case for trial. But the circuit court, persuaded by Bollea's side that it could disregard the opponents' objections as innocuous technicalities, entered a written order setting trial for July 6. Three days later, on June 22, the Gawker defendants filed the instant proceeding in this court.³

Although we easily understand why Bollea and the circuit court went to lengths to preserve the July 6 trial date, their efforts were futile from the outset—by the time the court entered its June 19 order scheduling the trial for July 6, the window for doing so had been closed for weeks. Rule 1.440(a) provides that an action is deemed at issue "after any motions directed to the last pleading served have been disposed of or, if no such motions are served, 20 days after service of the last pleading."

Thereafter, under subsection (b) a party must serve a notice that the action is at issue and ready to be scheduled for trial. Per subsection (c), the court must then enter an order setting trial no fewer than thirty days hence. The rule thus prescribes a minimum interval of fifty days between service of the last pleading and commencement of trial.

Fifty days prior to July 6 was May 17, which was a Sunday. Therefore, to permit a trial on July 6, the last pleading in the case must have been served no later than Friday, May 15; Bollea's notice that the action was at issue must have been filed

U.S. District Court

"The delay of the trial provides us the important opportunity to find out more about the three Hulk Hogan video recordings obtained by the FBI that appear highly relevant to the facts of the case," Heather Dietrick, Gawker's president and general counsel told BuzzFeed News. "We have the right to know the full story and are concerned because one of the tapes produced by the FBI today is incomplete while there is a serious irregularity in another tape."

Read the full opinion here:

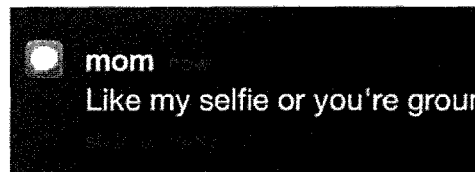
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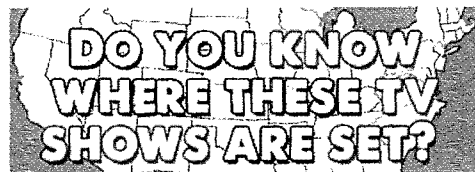
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NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

GAWKER MEDIA, LLC; NICK DENTON;
and A.J. DAULERIO,)
Petitioners,)

v.)

TERRY GENE BOLLEA, professionally
known as HULK HOGAN,)

Respondent.)

Case No. 2D15-2857

Opinion filed July 2, 2015.

Petition for Writ of Mandamus to the Circuit
Court for Pinellas County; Pamela A.M.
Campbell, Judge.

Gregg D. Thomas and Rachel E. Fugate of
Thomas & LoCicero PL, Tampa; and Seth
D. Berlin and Alia L. Smith of Levine
Sullivan Koch & Schultz, LLP, Washington,
District of Columbia, for Petitioners.

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Gawker's Nick Denton Once Had Risqué Photos Stolen – And Says They're Fair Game For Publication

buzzfeed.com

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