

Justice Watch

Judge defends sealing porn filed on court's database

http://www.dailybusinessreview.com/news.html?news_id=45423

October 22, 2007

By: Alana Roberts

Chief U.S. District Judge Federico Moreno is defending his administrative order requiring court clerks to temporarily seal any electronically filed documents that include images depicting sexual or excretory acts.

The judge felt compelled to issue the order Oct. 5 after Coral Gables lawyer Jack Thompson submitted images depicting gay sex acts in a court filing Sept. 19. The submission was part of Thompson's civil litigation against The Florida Bar, which is seeking to discipline him over the content of complaints he has filed against a variety of lawyers and judges.

Moreno's order allows such images to be filed electronically only if they are filed in a redacted text version, describing the images but not displaying them. The filer also may submit the documents in paper form with a motion to seal them.

The order doesn't affect the submission of descriptions of sexual or excretory acts that "could be described as pornography or indecent or vulgar even if not legally obscene."

Once images are sealed, the judge in the case would determine whether they are relevant.

Moreno said the order does not violate the First Amendment rights to free speech.

"I don't think there's a First Amendment issue," he said. "I'm not restraining anything. All I'm doing is having it [the images] sealed. They can file anything in words. This is just temporary so people [judges] will have more time to meditate on whether something is necessary to be filed."

He noted the public, including children, has access to court documents, and they should not be subjected to such images.

"It's to protect everyone," he said.

Moreno said it is one of the few acceptable reasons to seal documents.

"Lawyers never have any reluctance filing things under seal," he said. "Judges generally do not like to seal things."

Thompson's submission prompted U.S. District Judge Adalberto Jordan on Sept. 25 to order Thompson to show cause why his actions shouldn't be filed as a grievance with the court's Ad Hoc Committee on Attorney Admissions, Peer Review and Attorney Grievance.

Judge Jordan dismissed the order Oct. 11 after Thompson promised not to file any similar images.

Thompson said the images began with a warning page. But Judge Jordan said that wasn't enough.

Thompson also said he filed the images to prove they were accessible through links on the Web site of Norm Kent, a Fort Lauderdale lawyer with the law firm Kent & Cormican with whom Thompson has tangled over the years. Thompson said Kent has "collaborated" with the Bar for 20 years to discipline him.

Thompson's most recently filed amended complaint in federal court not only names The Florida Bar, but Miami-Dade Circuit Judge Judge Dava Tunis, the referee in the Bar's disciplinary case against Thompson; Frank Angones, president of the Bar; and John Harkness, executive director of the Bar.



Jack Thompson

Thompson's case alleges the Bar has not given him due process in its disciplinary efforts and is denying him his rights to free speech under the First Amendment by seeking to discipline him for criticizing judges, opposing lawyers and others through frequent court filings and letters.

Most recently, Thompson sent letters to acting U.S. Attorney General Peter Keisler and U.S. Sens. Patrick Leahy, D-Vt., and Arlen Specter, R-Pa., demanding that Judge Jordan be removed.

Thompson is a longtime crusader against violent video games and other media that display images he considers inappropriate for children.

He said minors were unlikely to encounter the images in the court file, and they could be easily found on the Internet without paying for them. Visitors to the federal courts' Pacer database must pay to view the content of court filings.

Thompson said it was unfair that he was sanctioned by Jordan for a rule that was not in place when he submitted the images. On that basis, he filed a motion to have Jordan removed from the case last Wednesday. The judge denied the motion.

Thompson said the Bar wants to disbar him because he has been a critic of judges, other lawyers and other people he opposes in federal and local courts in Florida and Alabama. His criticisms have taken the form of frequent letters and e-mails. However, he said being a nuisance to some isn't reason enough to disbar him.

Thompson alleges the Bar is trying to discipline him based on complaints from his legal opponents, all of whom he says are litigating against him by filing complaints about his conduct.

"They're denying my due process and selectively prosecuting me," he said. "They want to disbar me permanently from the Bar. I want to shut this stuff down or tell these guys they've got to give me due process."

Francine Walker, the Bar's director of public information, said Thompson's complaint in federal court to fight disciplinary proceedings isn't stopping the regulatory body.

"The Florida Bar is still pursuing its case against him in the Florida Supreme Court," she said. "There's nothing coming out of the federal court stopping us from doing our job."

Thompson, who is representing himself in his fight against the Bar, followed up with more filings in federal court.

One filed last week mentioned a conversation he had with a Daily Business Review reporter. He said the case has captured the attention of lawyers around the country who sympathize with his view that Bar regulators use their power to sanction attorneys to advance their own agendas.

"I'm not a civil rights lawyer, [and] I'm sure I do have a fool for a client," he said. "But I have some brilliant people who have contacted me to help me."

[Alana Roberts](#) can be reached at aroberts@alm.com or at (305) 347-6648.

Back To:

- [Today's top stories.](#)
- [More business stories.](#)
- [More legal stories.](#)



ALM Media, Inc. takes copyright infringement seriously. YOU MAY NOT DISTRIBUTE THIS STORY, ELECTRONIC OR OTHERWISE, WITHOUT OUR PERMISSION. You may print or purchase this story from our archives for your personal use only. In order to obtain reprint permission rights, please contact Sue Viera at 305-347-6621 or 800-777-7300 ext. 6621. If you need a subscription, please call 1--877-347-6682.