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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
Post Office Box 193939, San Francisco, CA 94119-3939

NIRA SCHWARTZ, Dr., aka Seal 2,
RSWL

Plaintiff - Appellant,
v.

RAYTHEON COMPANY, Long Beach;
et al.,

Defendants - Appellees,
v.

UNITED STATES OF AMERICA, ex rel.,
aka Seal 1,

Plaintiff - intervenor - Appellee.

NO. 03-55571
D.C. NO. CV-0 1-04937-

- 1) Petition For Rehearing En Banc** (FRAP 35, Circuit Rule 35)
- 2) Petition For Rehearing** (FRAP 40)
- 3) ATTACHMENT:** 9-26-05 MEMORANDUM
- 4) Notice of related case:** US Supreme 05-6194
- 5) Proof of Service**

1 **Now I come in Pro-per and place above Petitions with**
2 **Questions of exceptional importance to the Nation, to**
3 **Scientist as follows:**

4 **QUESTIONS**

5 **Question #1:** Is the full Court Opinion necessary to secure Valid EKV
6 Nation Missile Defenses Concept, not just three Judges?

7 *Arguments:* The Government alleged this qui-tam case DC 01-
8 04937 RSWL “endangering national security”. Please refer to last
9 paragraph on page # 2 of the “Brief For Appellee United States Of
10 America”. When the litigation is about the entire Nation, the entire full
11 Court should decide a dismissal. It is a Union issue.

12
13 **Question #2:** Do parties need access to privileged and sensitive material
14 to litigate this case, when I proved case claims by use of
15 basic laws of physics with data in the public domain?

16 *Arguments:* The Appeal Court on 9-26-05 [Instant ATTACHMENT]
17 accepted my approach to prove qui-tam case’s claims using basic Laws of
18 Physics with public data; but the court alleged I failed “to demonstrate that
19 the parties can litigate this case without access to privileged and sensitive
20 material” [Parties exclude me, since I do not need that type of data].

21 Now I come and Petition this Court that such type of data
22 “privileged and sensitive material” is not an ultimate necessary condition
23 and requirement to litigate a case when Laws of Physics with public data
24 proved its claims. This is prejudice to the Nation, to Science, to me, and
25 could cause the dismissal of any and all court cases, because all the
26 parties will claim they need access to “privileged and sensitive material”.
27
28

1 Especially it will give the Government employees and agencies a way to
2 cover-up for violation of the law.

3
4 **Question #3:** Did the court fail to consider THE WHITE HOUSE
5 EXECUTIVE ORDER 12958?

6 *Arguments:* See Attachment A of my Informal Brief dated 08-24-
7 04. The Order establishes that basic Physics laws are NOT classified or
8 sensitive material; Meaning, basic Laws of Physics that operates on
9 Public data cannot create “privileged and sensitive material”. Therefore
10 conditioning access to “privileged and sensitive material” to litigate a
11 case that I can prove by use of basic laws of physics with data in public
12 domain is in contradiction to this Order prejudice to the Nation, to
13 Science, to me, and possibly unconstitutional.

14
15
16 **Question #4:** Are Oral Arguments needed?

17 *Arguments:* Appeal Court ruled decision could not be made without
18 Oral Arguments. I place Petitions to the Court to allow me to present Oral
19 Arguments in front of the full Court, by scheduling a date for the Hearing.
20 Since I have a back injury I kindly request to be given 30 days ahead of
21 time to allow me coordination with the Medical doctors and physical
22 therapy.

23 **CONCLUSIONS:**For the forging reasons and for National security, these
24 Petitions should be granted.

25 Respectfully filed October 12, 2005,

26 *Dr. Nirva Schwartz*

27

Plaintiff Schwartz Woods

ATTACHMENT:

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The 9th Circuit 9-26-05 MEMORANDUM PAGE 1-2

FILED

SEP 26 2005

CATHY A. GATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NIRA SCHWARTZ, Dr., aka Seal 2,

Plaintiff - Appellant,

v.

RAYTHEON COMPANY, Long Beach;
et al.,

Defendants - Appellees,

v.

UNITED STATES OF AMERICA, ex rel.,
aka Seal 1,

Plaintiff-intervenor - Appellee.

No. 03-55571

D.C. No. CV-01-04937-RSWL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Ronald S.W. Lew, District Judge, Presiding

Submitted September 12, 2005**

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: REINHARDT, RYMER, and HAWKINS, Circuit Judges.

Nira Schwartz appeals pro se the district court's order dismissing her qui tam action brought pursuant to the False Claims Act, 31 U.S.C. § 3730(b), alleging that Raytheon falsely claimed to have satisfied the requirements of a defense contract with the United States government. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Rivera v. National Railroad Passenger Corp.*, 331 F.3d 1074, 1078 (9th Cir. 2003), and we affirm.

The district court properly dismissed Schwartz's qui tam action because the United States determined that the prosecution of this action threatened to interfere with its federal interest in protecting military and state secrets, and Schwartz fails to demonstrate that the parties can litigate this case without access to privileged and sensitive material. See *United States ex rel. Sequoia Orange Co. v. Baird-Neece Packing Corp.*, 151 F.3d 1139, 1144-45 (9th Cir. 1998) (the False Claims Act provides the government with broad power to dismiss an action brought by a private party on behalf of the United States); *Kasza v. Browner*, 133 F.3d 1159, 1166 (9th Cir. 1998) (the government has an overriding interest in protecting its military and state secrets).

Schwartz's remaining contentions lack merit.

AFFIRMED.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, the undersigned, declare: that I am a resident in the aforesaid County; I am over the age of 18 and not a party to the within entitled action; my home address is 2550 PCH # 68, Torrance, California 90505. On October 12, 2004, I served upon the interested party(ies) in this action the foregoing document(s) described as:

No: 03-55571

[Lower D.C. No. CV-01-04937-RSWL (RMCx) Central District of California, Los Angeles]

Petition For Rehearing En Banc (FRAP 35, Circuit Rule 35) and

Petition For Rehearing (FRAP 40)

ATTACHMENT: 9-26-05 MEMORANDUM

Notice of related case: US Supreme 05-6194

Proof of Service

By placing _____ the original(s) X true copy(ies) on a CD thereof enclosed in sealed Envelope(s) addressed to: See attached Service List

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. .

Executed on October 12, 2005, at Los Angeles, California.



Richard Woods

SERVICE LIST

To the Clerk of
UNITED STATES COURT OF APPEAL
FOR THE NINTH CIRCUIT
Post Office Box 193939,
San Francisco, CA 94119-3939

Michael S, Raab, Esq.
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Los Angeles, CA 90071-3048

Paul D. Clement -Solicitor General of the US
Department of Justice, Room 5614
950 Pennsylvania Ave., N.W.
Washington, DC 20530-001

1 **October 12, 2005**

2 To the Clerk Ms. Cathy Catterson
3 **UNITED STATES COURT OF APPEAL**
4 FOR THE NINTH CIRCUIT
5 Post Office Box 193939,
San Francisco, CA 94119-3939

6 **Case:** No: 03-55571 [Lower D.C. No. CV-01-04937-RSWL (RMCx) Central
7 District of California, Los Angeles]

8 Dear Hon. Clerk,

9 Please find enclose is an original and four copies for filing of the:

10 **No: 03-55571**
11 [Lower D.C. No. CV-01-04937-RSWL (RMCx) Central District of California, Los Angeles]
12 **Petition For Rehearing En Banc** (FRAP 35, Circuit Rule 35) and
13 **Petition For Rehearing** (FRAP 40)
14 **ATTACHMENT:** 9-26-05 MEMORANDUM
Notice of related case: US Supreme 05-6194
15 **Proof of Service**

16 Regards,

Dr. Nira Schwartz

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18 Dr. Nira Schwartz
19 2550 PCH # 68
20 Torrance, CA 90505
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