IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GRANT F. SMITH, *PRO SE*	)	
Plaintiff,	)	
vs.	)	
STEVEN T. MNUCHIN	)	
Secretary, U.S. Department of Treasury	)	Case: 17-1796
KATHLEEN MCGETTIGAN	)	
Acting Director, Office of Personnel Management	)	
Defendants.	)	
	)	

MEMORANDUM – JUDICIAL MISCONDUCT

On March 31, 2019 the Court issued an order granting Defendant's Motion for Summary Judgment, and denied Plaintiff's Motion for Summary Judgement. (ECF 25) However, the Court failed to issue a memorandum providing any support for its decision. Nearly a year later, no memorandum has made an appearance on the case docket.

Citing *St. Marks Place Housing. Co. v. U.S. Dep't of House & Urban Dev.*, 610 F.3d 75, 79–82 (D.C. Cir. 2010), the Court held that "This Order shall not be deemed a final Order subject to appeal until the court has issued its Memorandum Opinion." (ECF 25)

Plaintiff calls attention to the details of St Marks Place Housing Co v U.S. Dept of Housing & Urban Dev, which states:

"we believe that orders whose finality awaits the issuance of a later opinion should be avoided. Setting aside the propriety of using such orders to report motions as resolved when they still require judicial attention—a matter we leave to the district courts and the Administrative Office—these orders can confuse parties. In this case, for example, counsel for the companies was quite candid: "I think [the order] is contradictory and it did create confusion. And to be perfectly blunt, we struggled with it." Oral Arg. Tr. at 4. Only after "consultation with local counsel," he explained, did they come "to the conclusion ... that we had to wait for the Memorandum Decision" before filing an appeal. Id. at 4-5.

*82*82 In suggesting that orders like the one here be used rarely, if at all, we fully understand, as Judge Rovner — herself a former district judge — has cautioned, that district courts have "scarce resources" and "are overextended"; that reports on unresolved motions may produce "something of a stigma"; and that "congressionally-imposed time constraints on the civil docket compete with the Speedy Trial Act restrictions of the criminal docket," as well as other obligations. Otis v. City of Chicago, 29 F.3d 1159, 1172 (7th Cir.1994) (Rovner, J., concurring in the judgment). And we certainly share Judge Rovner's belief that it is "incumbent upon us, as a responsible and responsive reviewing court, to provide our colleagues with all reasonable means of efficiently and intelligently managing their case loads." Id. at 1173. The last thing we want is to exacerbate the competing pressures on busy, dedicated district court judges. Still, we think*

> *all judges, both circuit and district, must take care to ensure that case management innovations neither confuse litigants nor threaten their procedural rights."*

During the past year, this court has broken with its initial posture established in 2014 of upholding the Freedom of Information Act by newly issuing an unbroken series of rulings deferring to exaggerated federal agency claims and dismissing four of our public interest lawsuits. Due to a prejudicial local rule mandating the same judge hear all cases filed by pro se litigants, we have been unable to avail ourselves of other judges on the circuit, but rather have been "captured" by this Court as it moved away from its initial position of serving the public interest.

Some of the rulings issued in 2019 appear to be hastily written, vindictive and did not appear to properly weigh or even correctly cite the evidence presented. For example, in a November 27, 2019 memorandum (Page 15 ECF 21, Case 1:18-cv-02048-TSC), this court claimed,

> *Smith first contends that a July 1969 memorandum from Henry Kissinger to President Nixon is sufficiently similar to the requested information to satisfy the official acknowledgment requirement. (Pl. Br. at 24–26.) The memorandum, titled "Critical Technology Assessment in Israel and NATO Nations," outlines the parameters of the United States' ambiguity towards Israel's nuclear capabilities, but does not refer to any presidential letters on the topic.*

Kissinger's memo about Israel's nuclear weapons development was not—as the Court claims—titled "Critical Technology Assessment in Israel and NATO Nations." Nor does the actual report incorrectly cited by this Court deal with "ambiguity." Rather, that is the title of a 1987 Department of Defense study about Israel's extensive nuclear weapons production facilities, misuse of U.S. nuclear support supplied under the Atoms for Peace program, and intense secret work on hydrogen bomb development. The Court will recall that it actually upheld its mandate (which it probably regrets today) by properly challenging the Department of Defense for its release after Plaintiff sued. (See *Smith v. Department of Defense*, Case No: 14-cv-1611 TSC).

What the Court may not perceive is that the release of this report put Israel's nuclear weapons program under a very timely spotlight—because Israel's massive U.S. lobby was pushing for a U.S. attack on Iran based on wild conspiracy theories about Iran's civilian nuclear program. This Court's proper release of "Critical Technology Assessment in Israel and NATO Nations" had a positive outcome. It provided key support for the Obama administration's "Iran nuclear deal." The Nation Magazine featured the report, while the now defunct neoconservative *Weekly Standard* deemed the release a "shocking breach" that the Obama administration had dared to defy Israel and its lobby's insistence that official information about the Israeli nuclear weapons program may never be released to Americans.

Intense ire within the U.S. Israel advocacy community over the release of Critical Technology Assessment in Israel and NATO Nations may have been noted by members of

the DC circuit. Perhaps there were reprimands behind closed doors that a district Court releasing such content—which IRmep alone is seeking, archiving and contextualizing as an advocacy organization—is not allowed.

In 2015 this Court seemed slightly less eager to allow Plaintiff to challenge the CIA to release evidence about how it thwarted two FBI investigations into the illegal Israeli diversion—in collaboration with U.S. Zionist leaders—of U.S. government-owned bomb grade nuclear material from the Nuclear Materials and Equipment Corporation in Pennsylvania into Israel's Dimona nuclear weapons production facility. That was the last case in which Plaintiff was allowed to testify publicly in Court, despite numerous subsequent requests to appear and directly challenge government agency Defendants scrambling to conceal such information forever from the public. Thankfully, some material among the CIA's thousands of NUMEC files was released and provided to the public. See *Smith vs CIA*, Case No.: 1:15-cv-224 TSC ***However, it is now undeniable that the days of this Court siding with the public interest by at very least not actively thwarting bona fide review in these warranted disclosure efforts appears to be over.***

For example, on August 20, 2019 this court insisted that, although President Obama acknowledged "unprecedented" U.S. intelligence support for Israel, such acknowledgement did not avail members of the public the right to know how much more that country receives in secret taxpayer-funded support, beyond the lion's share of the publicly known U.S.

foreign assistance budget already going to Israel. (*Smith vs CIA*, Case No.: 1:15-cv-01431 TSC).

It cannot be emphasized enough that as a clandestine nuclear power, Israel is ineligible for U.S. foreign assistance under the Arms Export Control Act. Knowing the amount of secret intelligence aid would help Americans understand the total amount being embezzled from the U.S. Treasury each year. But this court won't step up and help the public avail itself of data necessary to demand accountability.

On September 30, 2019 this court ruled that the public also may not see the full, uncensored version of a gag order masquerading as a classification guideline, WNP-136, that forbids all federal employees and contractors from publicly acknowledging what Americans and the world already know—the fact that Israel has long had a nuclear weapons program. The only function of this secrecy is helping the President and federal agencies to skirt laws banning U.S. foreign aid to the non-NPT nuclear state of Israel. (*Smith v. US*, Case No. 18-0777 TSC). Releasing the full text of the gag order would help Americans understand how power really works in Washington. But this court believes the gag order should remain secret, and that power unchallenged.

On November 27, 2019 this court decided that certain secret presidential letters can never be released to the American public. Four U.S. presidents (often under early, curious secret pressure by Israel lobbyists and Israeli government officials) have in letters formally pledged not to uphold provisions in the Arms Export Control Act or Treaty on the

Proliferation of Nuclear Weapons over Israel. This, again, has led to the illegal transfer of at least $100 billion in known foreign aid for which Israel was ineligible since the letters were first instituted. (*Smith v. U.S. National Archives and Records Administration*, Case No. 1:18-cv-02048-TSC). Ordering the release of one or more of the letters would reveal how power really works, and how abidance to laws (again, the Arms Export Control Act) may be set aside if enough foreign lobbyists are able to secretly convince Presidents to do it. Most Americans cannot preemptively set aside the enforcement of laws through such agency. They deserve to see how this actually functions when their tax dollars and laws their representatives passed are involved. **This Court is unwilling to avail them of even a single letter, accepting the testimonials of highly compromised government bureaucrats.**

Many members of the public and IRmep stakeholders have been waiting with bated breath to learn precisely why they may never know the identities of employees at a Department of Treasury unit called the Office of Treasury and Financial Intelligence. The creation of this unit was a success of the lobbying division (the American Israel Public Affairs Committee, or AIPAC) of a designated Israeli foreign agent ordered to register as such by the Justice Department in 1962 (the AZC). As could be expected, the OTFI's observable activity is almost entirely conducting economic warfare against Israel's rivals from within Treasury. While claiming to work to counter nuclear proliferation, it carefully avoids sanctioning or even listing known Israeli nuclear smugglers designated by the FBI and DHS,

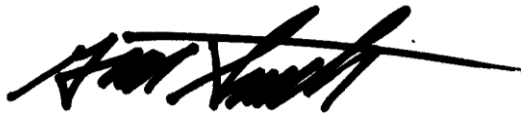
again including Israeli Prime Minister Benjamin Netanyahu and self-confess spy and arms dealer Arnon Milchan, as illustrated in filings. (*Smith v. Steven Mnuchin, Treasury Secretary and Kathleen McGettigan, Acting Director of OPM*, Case No. 18-0777 TSC).

Plaintiff notes that the most recent in an unbroken succession of undeniably severely compromised, unfit, hard-core Israel partisans who occupied the position as OTFI chief, Sigal Mandelker (who allegedly holds Israeli dual citizenship), has finally departed Treasury for the private sector. (See U.S. Treasury Sanctions chief Mandelker leaving for private sector). Such political appointees' main qualifications from the outside seem only to be their intense devotion to advancing the interests of a foreign country from within the federal bureaucracy. Many, many Americans are beginning to stand up and take notice of such corruption. Perhaps the publicity and reporting surrounding this case and the ongoing public exposure of OTFI's curious blind spots had something to do with Mandelker's departure. **If so, then this lawsuit is worth the expense and effort. But it should be reheard.**

That is because many Americans—including those who support IRmep—insist on transparency in government employment. That transparency started when James Madison listed his salary of $25,000 and position as "president" in the Official Register. It is a tradition that has somehow carried through to the present day. **They deserve to be given the names of OTFI employees in a timely manner. But this court appears to be waiting for a legal redesignation of OTFI as intelligence or law enforcement officials (which they are not) or some other forthcoming artifice. Such delay is not allowed.**

Americans are legally entitled to know why such a severely compromised unit of the U.S. Treasury as OTFI, observably set up to serve the interests of Israel, will not disclose who a actually works there. This Court's extreme delay in emitting any substantiation of the March 31, 2019 order has severely undermined Plaintiff's right to appeal. **This Court's unsubstantiated March 31, 2019 ORDER constitutes judicial misconduct "as violating other specific, mandatory standards of judicial conduct," e.g. our right to timely judicial justifications of decisions which enable our right to a timely appeal.**

We therefore demand that this case be re-heard, at the District level, by another judge or panel of judges, randomly assigned by the Court. We have already filed a copy of this memorandum with the Office of the Circuit Executive as a judicial misconduct complaint in hopes that they positively intervene.



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JUDICIAL COUNCIL OF THE DISTRICT OF COLUMBIA CIRCUIT
COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866
202-216-7340

This form should be completed and mailed to the above address to the attention of the "Circuit Executive". The envelope should be marked "JUDICIAL MISCONDUCT COMPLAINT" or "JUDICIAL DISABILITY COMPLAINT". Do not put the name of the judge on the envelope.

The "Rules for Judicial-Conduct and Judicial-Disability Proceedings", adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. Your complaint (this form and the statement of facts) should be typewritten and must be legible. Only the original form and up to a five page statement of facts should be submitted. No copies are required.

1. Name of Complainant: Grant F. Smith

   Address: PO Box 32041, Washington, DC 20007

   Telephone: (202) 342 -7325

2. Name(s) of Judge(s) complained about: Tanya Chutkan

   Court: U.S. District of Columbia District Court

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

   ○ Yes ○ No

   If "yes" give the following information about each lawsuit (use reverse side if more than one):

   Court: US District Court District of Columbia

   Case number: Case: 17-1796

Are (were) you a party or lawyer in the lawsuit?

◉ Party ○ Lawyer ○ Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

Pro Se

Docket number(s) of any appeals of above case(s) to the Court of Appeals, D.C. Circuit:

No appeal because no order ever filed by Judge Chutkan.

4. Have you filed any lawsuits against the judge?

○ Yes ◉ No

If "yes" give the following information about each lawsuit (use the reverse side if more than one)

Court: _____

Case number: _____

Present status of lawsuit: _____

Your lawyer's name: _____

Address: _____

Telephone: (___) ___ - ____

Court to which any appeal has been taken in the lawsuit against the judge: _____

Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts**. Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based on up to five double-sided pages (8.5 x 11"). Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Rule 6 (a) for further information on what to include in your statement of facts.

Declaration and Signature:

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

Signature: _____ Date: 01/06/2020