

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:07CR192

DAVID ZACHARY SCRUGGS

**GOVERNMENT'S RESPONSE TO THE DEFENDANT'S
MOTION TO CONTINUE THE TRIAL**

Comes now the United States and files this its response to the defendant's motion to continue the trial. In support of its motion, the government would state as follows:

With the present motion the defendant is asking for a 90-120 continuance of trial, arguing essentially that trial should be continued because two of his codefendants entered guilty pleas last week. In support of his motion, the defendant contends that entry of the guilty pleas has "significantly changed the strategic and tactical realities for Defendant and his counsel, and additional time is needed to adequately prepare the defense in light of these new realities." The defendant also argues that the trial should be continued because of the "extraordinary media attention" of the guilty pleas entered last week. Because neither argument is sufficient grounds for a continuance, the defendant's motion should be denied.

The indictment was returned in this action on November 28, 2007 and initially set for trial to begin January 22, 2008. The defendants moved for a continuance, and trial was set for February 25, 2008. The defendants then moved for a second continuance, and trial was set to begin March 21, 2008. The defendant has now moved for a third continuance of 90-120 days to prepare his defense. Clearly, the defendant has had ample time to prepare a defense for the upcoming March 21 trial, and while the defendant claims the "strategic and tactical realities" have changed, the facts remain the same, and the defendant has been aware of those facts since

November 2007. Also, contrary to the defendant's position, the case has actually become less complex with only one defendant remaining, and the defendant has at present at least five attorneys of record. The present charge is a straightforward judicial bribery charge and should take no longer than one week to try. Four months preparation is certainly sufficient time to prepare for such a simple case.

The defendant also argues for a continuance based upon the "extraordinary media coverage" of the pleas entered last Friday. However, as the defendants pointed out in their motion to change venue on February 21, the media have covered this case from its outset. Regardless of which defendants did so, the fact that two more defendants entered guilty pleas changes nothing. As the court noted during the March 14 hearing, 200 jury questionnaires have already been sent. The information provided on those questionnaires combined with voir dire of those 200 citizens should easily provide the court with a pool from which a fair and impartial jury can be had.

Conclusion

Because the present action was filed almost four months ago and because it is, in the end, a relatively simple case, the defendant's third motion for a continuance of trial should be denied.

Respectfully submitted,

JIM M. GREENLEE
United States Attorney

/s/ Thomas W. Dawson

By
THOMAS W. DAWSON
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/s/ Robert H. Norman

By
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Assistant United States Attorney

David A. Sanders

By
DAVID A. SANDERS
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CERTIFICATE OF SERVICE

I, THOMAS W. DAWSON, First Assistant United States Attorney, hereby certify that I electronically filed the foregoing **GOVERNMENT'S RESPONSE TO THE DEFENDANT'S MOTION TO CONTINUE THE TRIAL** with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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and I hereby certify that I have mailed to United States Postal Service the document to the following non-ECF participants:

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This the 21st day of March, 2008.

/s/ Thomas W. Dawson
THOMAS W. DAWSON
First Assistant United States Attorney