

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,            )  
  )  
  ) Plaintiff,                                )  
  )  
  ) v.                                        ) Criminal Action No.  
  ) 09-00296-01/06-CR-W-FJG  
JOHN ANGELL,                            )  
ERIC BURKITT,                          )  
ROBERT STEWART,                        )  
JAMES COX,                             )  
STEVE LARSON,                          )  
and                                        )  
NICHOLAS DONKERSLOOT,                )  
  ) Defendants.                            )

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

**I. BACKGROUND**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on November 18, 2009. Defendant John Angell appeared in person and with appointed counsel James Brown. Defendant Eric Burkitt appeared in person and with appointed counsel Al White. Defendant Robert Stewart appeared in person and with retained counsel Ronald Partee. Defendant James Cox appeared in person and with retained counsel Curtis Hanrahan, Georgia Mathers, and William Nacy. Defendant Steve Larson appeared in person and with retained counsel Alberto Miera and John Osgood. Defendant Nicholas Donkersloot appeared in person and with retained counsel

Charles Rogers. The United States of America appeared by Assistant United States Attorneys Jeff Valenti and Dan Nelson.

On September 24, 2009, an indictment was returned charging all six defendants with conspiracy to distribute methamphetamine, cocaine, and marijuana, in violation of 21 U.S.C. § 846. The indictment also charges defendant Angell with one count of witness tampering in violation of 18 U.S.C. § 1513(b)(2).

The following matters were discussed and action taken during the pretrial conference:

## **II. TRIAL COUNSEL**

Mr. Valenti announced that he and Mr. Nelson will be the trial counsel for the government. The case agent to be seated at counsel table is Detective Steve Cook, Independence, Missouri, Police Department.

Mr. Brown announced that he will be the trial counsel for defendant John Angell.

Mr. White announced that he will be the trial counsel for defendant Eric Burkitt.

Mr. Partee announced that he will be the trial counsel for defendant Robert Stewart.

Mr. Hanrahan announced that he, Ms. Mathers, and Mr. Nancy will be the trial counsel for defendant James Cox.

Mr. Miera announced that he and Mr. Osgood will be the trial counsel for defendant Steve Larson.

Mr. Rogers announced that he will be the trial counsel for defendant Nicholas Donkersloot.

### **III. OUTSTANDING MOTIONS**

There is currently pending for ruling by the Magistrate Judge a motion to sever counts filed by defendant Robert Stewart on October 13, 2009 (document number 69).

There is currently pending for ruling by the District Judge an appeal of a detention order filed by defendant Burkitt on November 5, 2009 (document number 85); an appeal of a detention order filed by defendant Stewart on November 5, 2009 (document number 86); a motion in limine filed by defendant Larson on November 16, 2009 (document number 103); and a motion to join in the motion in limine filed by defendant Donkersloot on November 17, 2009 (document number 104).

### **IV. TRIAL WITNESSES**

Mr. Valenti announced that the government intends to call 30 witnesses with or without stipulations.

Mr. Brown announced that defendant John Angell intends to call 5 to 6 witnesses during the trial. The defendant may testify.

Mr. White announced that defendant Eric Burkitt intends to call 5 to 6 witnesses during the trial. The defendant may testify.

Mr. Partee announced that defendant Robert Stewart intends to call 5 to 6 witnesses during the trial. The defendant may testify.

Mr. Hanrahan announced that defendant James Cox intends to call no witnesses during the trial. The defendant may testify.

Mr. Miera announced that defendant Steve Larson intends to call 3 to 4 witnesses during the trial. The defendant will testify.

Mr. Rogers announced that defendant Nicholas Donkersloot intends to call 1 to 2 witnesses during the trial. The defendant may testify.

**V. TRIAL EXHIBITS**

Mr. Valenti announced that the government will offer approximately 750 exhibits in evidence during the trial.

Mr. Brown announced that defendant John Angell will offer approximately 20 exhibits in evidence during the trial.

Mr. White announced that defendant Eric Burkitt will offer approximately 20 exhibits in evidence during the trial.

Mr. Partee announced that defendant Robert Stewart will offer approximately 10 exhibits in evidence during the trial.

Mr. Hanrahan announced that defendant James Cox will offer approximately 10 exhibits in evidence during the trial.

Mr. Miera announced that defendant Steve Larson will offer approximately 10 exhibits in evidence during the trial.

Mr. Rogers announced that defendant Nicholas Donkersloot will offer approximately 10 exhibits in evidence during the trial.

#### **VI. DEFENSES**

Mr. Brown announced that defendant John Angell will rely on the defense of general denial.

Mr. White announced that defendant Eric Burkitt will rely on the defense of general denial.

Mr. Partee announced that defendant Robert Stewart will rely on the defense of general denial.

Mr. Hanrahan announced that defendant James Cox will rely on the defense of general denial.

Mr. Miera announced that defendant Steve Larson will rely on the defense of general denial.

Mr. Rogers announced that defendant Nicholas Donkersloot will rely on the defense of general denial.

#### **VII. POSSIBLE DISPOSITION**

Mr. Brown stated this case is definitely for trial.

Mr. White stated this case is definitely for trial.

Mr. Partee stated this case is definitely for trial.

Mr. Hanrahan stated this case is definitely for trial.

Mr. Miera stated this case is definitely for trial.

Mr. Rogers stated this case may be for trial.

## VIII. STIPULATIONS

Stipulations are not likely.

## IX. TRIAL TIME

Counsel were in agreement that this case will take 5 to 8 days to try.

## X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed October 26, 2009, and November 18, 2009, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by November 18, 2009;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, December 2, 2009;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions<sup>1</sup> by or before noon, Wednesday, December 2, 2009. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

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Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter which will be prepared by Judge James England, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to the following by Friday, December 4, 2009: marylynn\_shawver@mow.uscourts.gov and rhonda\_enss@mow.uscourts.gov. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

**XI. UNUSUAL QUESTIONS OF LAW**

Defendant Steve Larson has filed a motion in limine regarding the anticipated opinion testimony of Detective Steve Cook on the general criminal propensities, activities, practices, and rituals of motorcycle club members.

Additional motions in limine on the following issues will probably be filed: use of the term gang, additional voir dire and panelists to deal with exposure to television, defendant Burkitt's pending case for felony rape and sodomy.

There are no unusual questions of law.

**XII. TRIAL SETTING**

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on December 7, 2009. The parties have requested a setting on the second week of the trial docket.

/s/ Robert E. Larsen  
ROBERT E. LARSEN  
U. S. Magistrate Judge

Kansas City, Missouri  
November 18, 2009

cc: Mr. Kevin Lyon