

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 08-00026-03, 05-CR-W-FJG
)	
TROY R. SOLOMON, and)	
DELMON L. JOHNSON,)	
)	
Defendants.)	

**GOVERNMENT'S RESPONSE TO DEFENDANTS'
MOTION FOR RECONSIDERATION OF TRANSFER OF VENUE**

The United States of America, by and through its undersigned counsel, hereby responds to “Defendants’ Motion for Reconsideration of Transfer of Venue to the Southern District of Texas.” The defendants still have not met their burden of showing that they are entitled to a transfer, and accordingly this motion should be denied.

I. BACKGROUND

On February 6, 2008, a federal grand jury in the Western District of Missouri returned a 24-count indictment charging Troy R. Solomon (“Solomon”), Delmon L. Johnson (“Johnson”), and three defendants with crimes related to the illegal distribution of controlled substances by The Medicine Shoppe pharmacy in Belton, Missouri to defendants Solomon and Johnson in Houston, Texas. Count One charges all five named defendants with conspiring to distribute controlled substances. Count Two charges certain defendants, including Solomon and Johnson, with conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h). Counts Three through Twelve charge certain defendants with substantive counts of illegal distribution and

dispensation of schedule III, IV, and V controlled substances, in violation of 21 U.S.C. § 841(a)(1).

Solomon and Johnson (collectively “defendants”) have filed multiple motions for transfer of venue from the Western District of Missouri to the Southern District of Texas, pursuant to Rule 21(b) of the Federal Rules of Criminal Procedure. (*See* Docs. 31, 33, 162, and 175). Having fully considered the arguments, this Court denied the motions to transfer. (Doc. 199).

II. DISCUSSION

In their motion for reconsideration, defendants argue that there are “new reasons” that favor their request to transfer the case and trial to the Southern District of Texas. (Defs.’ Mot. For Reconsideration of Mot. to Transfer (Doc. 242), at 1.) In support of transfer, defendants argue they have to “depose multiple witnesses from Houston” and “there are boxes of records in Houston that require a great deal of attention.” These reasons do not warrant a discretionary transfer of trial venue to the Southern District of Texas. Nothing has changed to merit reconsideration of the denial of their motions for transfer of venue.

The Government notes at the outset that contrary to defendants’ assertion that the Government has to take “multiple” depositions, that is a misstatement. At the pretrial conference on June 30, 2009, the Government brought to defense counsel’s and the Court’s attention that a main witness in Houston may have to be deposed due to medical concerns, which could prevent that witness from traveling to Kansas City for trial in July 2009. The trial date has now been continued. Thus, there is no longer a need to depose that witness.

Second, the “new reasons” for transfer are not new. Defendants essentially made these same arguments in their “Joint Second Amended Motion to Transfer Venue and Sever” filed January 15, 2009. (Doc. 175). In that motion, defendants attached as an exhibit a letter, dated November 12, 2008, from the Government informing them that items seized from Ascensia Nutritional Pharmacy was available for inspection and copying. (Def. Jt. Sec. Am. Mot. To Transfer Venue (Doc. 175), at 2.) Thus, they knew about the “boxes of records in Houston” last year. Also, in that same pleading, they discounted the notion of taking depositions of witnesses. (Def. Jt. Sec. Am. Mot. To Transfer Venue, at 2.) Now they argue “the need to depose multiple witnesses from Houston.” (Defs.’ Mot. For Reconsideration of Mot. to Transfer (Doc. 242), at 2.) Whether defendants need to depose multiple witnesses from Houston, this factor does not necessitate a transfer of venue.

In sum, there are no “new” reasons that favor transfer. Defendants have regurgitated arguments that have been fully considered and rejected by this Court.

III. CONCLUSION

WHEREFORE, for the reasons previously stated, the United States respectfully asks the Court to deny defendants' motion for reconsideration of transfer of venue.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on July 15, 2009, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

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