

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

UNITED STATES OF AMERICA

VS.

CAUSE NO. 4:08-cr-00026

**TROY R. SOLOMON,
ET AL.**

TROY SOLOMON'S MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE SARAH HAYS:

COMES NOW TROY SOLOMON and respectfully moves this Honorable Court for a continuance of trial for the following reasons:

1. This case is currently set for trial on June 21, 2010.
2. Despite previous requests from this Court, Mr. Solomon's attorney and the prosecutors in this case, the prosecutor in the Southern District of Texas, Mr. Stuart Burns, did not apprise any other affected party of his timeframe for the new indictment but rather requested and obtained the Houston indictment against Mr. Solomon on May 4, 2010, without any notification whatsoever. (The indictment charges three defendants in three distinct counts.)¹

¹ Hereinafter, this indictment will be referred to as the "Houston indictment." The Houston indictment alleges the conspiracy ran from January of 2004 through May 3, 2006. As this Court is well aware, the conspiracy in the case at bar overlaps the dates of the conspiracy in the Houston indictment.

3. From the face of the Houston indictment, it is readily apparent that the case could have been indicted years ago. As the Court will remember, counsel voiced his concern that the Houston indictment would be returned on the eve of trial. To that end, the Court politely inquired of the Government an update on the schedule of the Houston indictment.² Prior to May 5, 2010, the Government failed to update this Court or undersigned counsel despite the fact AUSA Burns had informed undersigned counsel that the Houston indictment was imminent over a year ago. It strains credulity to believe the Houston indictment was filed so close to trial for any reason other than to gain an unfair tactical advantage over Mr. Solomon in direct contravention of his Sixth Amendment right to a fair trial.
4. The Government has disqualified Mr. Solomon's counsel of choice, Anthony Bannwart, and indicted Mr. Solomon in another case the month before he was set to begin trial in this cause. Either intentionally or with utter disregard for the Sixth Amendment, the Government has emasculated his constitutional right to present a defense by bankrupting him. To date, Mr. Solomon's previous attorney has refused to refund any of the money that Mr. Solomon paid for his representation. The concomitant/attendant obligations required by the filing of the Houston indictment have already cost Mr. Solomon three more days of work. The conditions of release on the Houston indictment require Mr. Solomon to find a new job. The docket control order issued as a result of the Houston indictment requires

² During a status conference with this Court on November 21, 2010

Mr. Solomon's appearance at least two more times before the end of this month.³

5. In addition to ensuring that Mr. Solomon cannot afford to defend himself in either case, the Government has compromised Mr. Solomon's ability to participate in his defense in a meaningful way. Mr. Solomon has experienced chest pains and related medical issues since being released from the custody of the marshal in Houston late last week. Due to his current medical condition, Mr. Solomon has been unable to even meet with undersigned counsel to discuss the Houston indictment.
6. At 5:30 p.m. on May 7, 2010, undersigned counsel conferred with AUSA Burns regarding the opportunity to review the discovery relative to the Houston indictment. While no date was given as to when discovery would be available, counsel broached the subject of a global settlement and the possibility of a Rule 20 agreement. Earlier today, undersigned counsel discussed this prospect with Mr. Rhodes. Mr. Rhodes indicated that the Government could be open to this avenue, but would need to discuss the matter further with AUSA Burns.
7. Unfortunately, co-counsel, Mrs. Ruden, has been placed on bed rest due to her delicate condition. (She is thirty-five weeks pregnant with twins.) Consequently, Mr. Solomon is down to one lawyer to deal with two multi-defendant conspiracy cases in two separate jurisdictions. It will be impossible for Mr. Solomon to get up to speed on the new case to a degree

³ Thus, Mr. Solomon will be forced to miss even more work.

that will allow for settlement discussions while preparing to start trial in five weeks.

Counsel must be afforded the opportunity to adequately evaluate and investigate the discovery material in the Houston case in order to properly advise Mr. Solomon on how to proceed. Simply stated, this will be impossible to do while attempting to finalize trial preparation.

Title 18 § 3161 instructs a court to look at “whether the failure to grant such a continuance...would likely make the continuation of the proceeding impossible, or result in a miscarriage of justice.” Given the totality of the circumstances that Mr. Solomon has encountered in the instant case as well as the Houston case, this Court should continue the trial date in this case for at least thirty days.

WHEREFORE, PREMISES CONSIDERED, Mr. Solomon respectfully requests that this Court docket this matter for a hearing as to the propriety of the continuance requested herein.⁴

Respectfully submitted,

/s/ Chip Lewis

CHIP LEWIS
MARY GRACE RUDEN
TBC #00791107 (Lewis)
2120 Welch
Houston, Texas 77019
713-523-7878 (Telephone)
713-523-7887 (Facsimile)

ATTORNEYS FOR MR. SOLOMON

⁴ Mr. Solomon also re urges his Motion to Transfer Venue to the Southern District of Texas. (Documents 182 and 242 remain pending before the Court.) Mr. Solomon will happily file another motion relative to transfer or simply provide argument at the upcoming conference consistent with any directive of this Court.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Continuance has been forward via electronic filing to Rudolph Rhodes, Assistant United State's Attorney, on this the 7th day of May, 2010.

 /s/ Chip Lewis
CHIP LEWIS

CERTIFICATE OF CONFERENCE

On May 7, 2010, counsel for Mr. Solomon conferred with Assistant United States Attorney, Rudolph Rhodes, concerning his position on Mr. Solomon's Motion for Continuance and Mr. Rhodes advised that he is opposed to this Motion.

 /s/ Chip Lewis
CHIP LEWIS