

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

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

ORDER

Pending before the Court are the following two motions:

1. Defendants' [Solomon and Johnson] Motion for Reconsideration of Transfer of Venue to the Southern District of Texas (doc #242); and
2. Defendant Elder's ... Motion to Sever Solomon and Grant His Request for Change of Venue to Texas (doc #293).

On April 9, 2009, the Court entered an Order denying Defendant Elder's Motion for Severance (doc #22), Defendant Solomon's Motion to Transfer Venue and Sever (doc #31), Defendant Johnson's Motion to Transfer Venue and Sever (doc #33), Defendants Solomon's and Johnson's Joint Amended Motion to Transfer Venue and Sever (doc #162), Defendants Solomon's and Johnson's Joint Second Amended Motion to Transfer Venue and Sever (doc #175) and Defendant Elder's Motion for Change of Venue (doc #182). In that order, the Court found that the government's choice of forum is ordinarily to be respected. (Doc #199 at 18) Defendants, who bear the burden of justifying a transfer, had not convinced the Court that it should overturn the general rule. (Id.)

Defendants Solomon and Johnson filed a Motion for Reconsideration of Transfer of Venue to the Southern District of Texas (doc #242). In this motion, defendants “reurge the arguments set out in the previous requests to transfer venue.” (Doc #242 at 1) In addition, counsel argues:

As the Court witnessed at the pretrial hearing [held June 30, 2009], the parallel Houston investigation has become the tail that wags the dog. This case has infinitely more connection to Houston than it does to Kansas City. Both the defense and the government expressed the need to depose multiple witnesses from Houston. It is now apparent that there are boxes of records in Houston that require a great deal of attention. Absent the two cooperating defendants (Rostie and Martin), there is virtually no nexus to Kansas City.

The numerous cases cited by this Court in its 8-page discussion now tilt in favor of transfer of venue. Courts are often reticent to transfer a case out of respect to their fellow jurists. However, this trepidation can be cured by following the case to Houston.¹

(Id. at 2)

The Court notes that the only new argument set forth in the motion to reconsider is “the parallel Houston investigation.” At the June 30, 2009 pretrial hearing, it was discussed that an indictment in Houston was looming on the horizon. This three-count indictment was finally filed in the Southern District of Texas on May 4, 2010. Count One of the Texas indictment charges Peter Chukwuemeka Okose, Troy Romain Solomon and Bede Nduka with conspiracy to unlawfully distribute and dispense controlled substances in the Houston Division of the Southern District of Texas. Counts Two and Three charge Peter Chukwuemeka Okose with the unlawful distribution of controlled substances.

As significant as what the Southern District of Texas indictment charges is what (and who) is does not charge. Christopher L. Elder and Delmon L. Johnson are not charged in the Southern

¹The Court declines defendants’ invitation that a judge from the Western District of Missouri try this case in the Southern District of Texas.

District of Texas indictment. Troy R. Solomon, while he is charged in the Southern District of Texas indictment, does not face the same charges in Texas that he does in Missouri. In the Western District of Missouri indictment, Solomon is charged with ten counts of distribution of controlled substances. He is not charged with any counts of distribution in the Southern District of Texas indictment. In the Western District of Missouri indictment, Solomon is charged with conspiracy to commit money laundering. Conspiracy to commit money laundering is not charged in the Southern District of Texas indictment. In the Western District of Missouri indictment, Solomon is charged with conspiring in the Western District of Missouri and elsewhere with Mary Lynn Rostie, Cynthia S. Martin, Christopher L. Elder and Delmon L. Johnson to distribute controlled substances. The conspiracy to distribute controlled substances charge in the Southern District of Texas names other co-conspirators and limits the conspiracy to the Houston Division of the Southern District of Texas. Joining Solomon's Missouri charges with the Texas prosecution would significantly expand that prosecution.

Further, even if the charges against defendant Solomon in the Western District of Missouri were joined with the charges brought against Solomon in the Southern District of Texas, most of these charges would still need to be tried in the Western District of Missouri. Eight of the distribution counts against defendant Solomon, the conspiracy to commit money laundering count and the conspiracy to distribute controlled substances count also charge either defendant Elder, defendant Johnson or Elder and Johnson. Judicial resources would be wasted by a severance and transfer.

As set forth above, the only thing that has changed since the Court last examined the issue of severance and transfer is the indictment now pending in the Southern District of Texas. Defendants, who bear the burden of justifying a transfer, have not convinced the Court that it should

