

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

UNITED STATES OF AMERICA,            )  
  )  
  Plaintiff,            )  
  )  
v.    )  
  )  
TROY R. SOLOMON,                    )  
  )  
  Defendant.            )

Case No. 08-00026-03-CR-W-FJG

ORDER

Pending before the Court is Defendant's Motion to Reconsider Continuance and Transfer (doc #297). In support of this motion, defendant Solomon sets forth two arguments:

2. The docket control order on the Houston case requires Mr. Solomon's appearance for the final pre-trial conference on June 21, 2010. The trial of that cause is set to begin on June 28, 2010.
3. Given the financial drain caused by simultaneously defending against two federal criminal conspiracy indictments, Mr. Solomon lacks the resources to pay for his travel to, lodging or minimal living expenses while in Kansas City. Further, Mr. Solomon cannot afford to pay for his witnesses to travel to Kansas City. To illustrate this fact, Mr. Solomon will voluntarily execute a financial affidavit illustrating his current financial situation.

(Motion to Reconsider Continuance and Transfer at 1) The government has filed a response to defendant's motion.

The instant case was filed on February 6, 2008. Defendant Solomon initially appeared in this district on April 2, 2008. The trial was continued from several settings as a result of motions for continuance filed by defendants (three of which were filed by defendant Solomon (docs #154, #194 and #239)). On February 18, 2010, the case was continued to its current setting of June 21, 2010. Defendant Solomon now wishes to continue this case because he was indicted in the Southern

District of Texas on May 4, 2010, and wishes to proceed to trial on that case on June 28, 2010. The Court finds that the case which has been pending in the Western District of Missouri for almost two and one-half years and which has had its current setting since February needs to be tried before the case in the Southern District of Texas which has been pending for one month.

Defendant Solomon next argues that his trial must be transferred to the Southern District of Texas due to his lack of resources. With respect to defendant Solomon's purported lack of resources to pay for his travel to Kansas City, the Court directs defendant's attention to 18 U.S.C. § 4285. That statute provides a mechanism whereby a defendant who is financially unable to provide transportation to appear before the court on his own may have transportation provided by the United States marshal. With respect to defendant Solomon's purported lack of resources to pay for lodging or living expenses while in Kansas City, the Court is not adverse to placing Solomon in a half-way house or taking him into custody so that his "room and board" is not an issue. Defendant Solomon will need to execute a financial affidavit if he wishes the Court's assistance in obtaining transportation, lodging and meals.

Finally, with respect to defendant Solomon's argument that his trial must be transferred because he cannot afford to pay for his witnesses to travel to Kansas City, the Court has previously stated in its Order denying defendants' motions to transfer venue:

Case law is clear that when "witnesses were not named or otherwise described and the nature of their expected testimony was not disclosed" in a motion to transfer, there is no abuse of discretion when a court denies such a "motion based upon so inadequate a showing." Lindberg v. United States, 363 F.2d 438, 439 (9<sup>th</sup> Cir. 1966). See also In re United States, 273 F.3d 380, 386 (3<sup>rd</sup> Cir. 2001)(motion to transfer should contain "names and addresses of witnesses whom the moving party plan to call [and] affidavits showing the materiality of the matter to which these witnesses will testify"); United States v. Testa, 548 F.2d 847, 857 (9<sup>th</sup> Cir. 1977)(in order to carry burden of demonstrating need for transfer, defendant should indicate specifically who the witnesses were to be and the nature of their expected

testimony); United States v. Culoso, 461 F. Supp. 128, 137 (S.D.N.Y. 1978)(“it is not sufficient to make the bare assertion that a large number of defense witnesses from out of the District are needed at trial.”)

(Order dated April 2, 2009 (doc #199) at 15) Despite the Court’s previous admonition that specific information as to who the witnesses were and the nature of their expected testimony needed to be provided to justify a transfer based on witnesses needed at trial, defendant Solomon has continued to provide no such information.

Based on the foregoing, it is

ORDERED that Defendant’s Motion to Reconsider Continuance and Transfer (doc #297) is denied.

/s/ Sarah W. Hays  
SARAH W. HAYS  
UNITED STATES MAGISTRATE JUDGE