

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Criminal Action No.
) 10-00162-16-CR-W-FJG
 THEODORE WIGGINS,)
)
 Defendant.)

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

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 May 23, 2012. Defendant Theodore Wiggins appeared in person and with appointed counsel Michael Walker. The United States of America appeared by Assistant United States Attorneys Brent Venneman and Sydney Sanders.

I. BACKGROUND

On June 7, 2011, a second superseding indictment was returned charging defendant Wiggins with one count of conspiracy to distribute cocaine and crack cocaine, in violation of 21 U.S.C. § 846, and one count of distributing cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

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

II. TRIAL COUNSEL

Mr. Venneman announced that he and Ms. Sanders will be the trial counsel for the government. The case agents to be seated at counsel table are Detective Don Stanzi,

Kansas City, Missouri, Police Department, and Special Agent Scott Francis, Department of Homeland Security.

Mr. Walker announced that he will be the trial counsel for defendant Theodore Wiggins.

III. OUTSTANDING MOTIONS

There is currently pending for ruling by the district judge a motion for leave to file out of time objections to the government's notice of intent to offer Rule 404(b) evidence (document number 719). Defendant plans to file a motion in limine on the same issue which will make this motion moot.

IV. TRIAL WITNESSES

Mr. Venneman announced that the government intends to call 15 witnesses without stipulations and 10 witnesses with stipulations during the trial.

Mr. Walker announced that defendant Theodore Wiggins intends to call 3 witnesses during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Mr. Venneman announced that the government will offer approximately 65 exhibits in evidence during the trial.

Mr. Walker announced that defendant Theodore Wiggins will offer approximately 20 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Walker announced that defendant Theodore Wiggins will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Walker stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are not likely - defendant Wiggins has refused to enter into any stipulations.

IX. TRIAL TIME

Counsel were in agreement that this case will take 4 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 22, 2010, 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 or before May 23, 2012;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, May 30, 2012;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, May 30, 2012. 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.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the forthcoming trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by Friday, June 1, 2012. 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 plans to file a motion in limine dealing with the proposed 404(b) evidence. The motion should be filed by the close of business today. 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 June 4, 2012.

/s/ Robert E. Larsen

ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
May 23, 2012

cc: Mr. Jeff Burkholder