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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA . Cause No. 3:07CR192
. .
Plaintiff . Oxford, Mississippi
. March 14, 2008
v. . 11:07 a.m.
. .
DAVID ZACHARY SCRUGGS .
. .
Defendant .
.

MOTION HEARING
BEFORE THE HONORABLE NEAL B. BIGGERS
U.S. SENIOR DISTRICT JUDGE

APPEARANCES:

For the Government: United States Attorney's Office
Northern District of Mississippi
BY: THOMAS W. DAWSON, ESQ.
BY: ROBERT H. NORMAN, ESQ.
BY: DAVID A. SANDERS, ESQ.
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For the Defendant
David Zachary Scruggs:
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Proceedings recorded by mechanical stenography, transcript
produced by computer.

1 (CALL TO ORDER OF THE COURT)

2 THE COURT: All right. We have some motions -- a
3 motion, one particular motion, that was filed by the -- just by
4 this defendant, Zach Scruggs, asking for the indictment to be
5 dismissed. You want to argue that motion, Mr. Graves?

6 MR. GRAVES: Your Honor, we'll stand on the pleadings
7 as filed.

8 THE COURT: All right. Okay, that motion will be
9 denied. What else do you have that you wish to present at this
10 time?

11 MR. GRAVES: Your Honor, I'd like an opportunity to
12 come back to the Court on several of the motions -- other
13 motions that have been filed, the discovery motions, the jury
14 motions, all those things are things that I think we can
15 probably work out with the Government. And I don't think they
16 really apply to a single defendant in the same way that they
17 would apply to multiple defendants.

18 THE COURT: Very well. I think that's a reasonable
19 course of action. And you think you can confer with the
20 Government and take care of most of these motions or else amend
21 them quite significantly?

22 MR. GRAVES: Yes, Your Honor. Now, we do have -- you
23 know, we have concerns about trying this case as it's
24 scheduled. And I understand the Court is very punctual in
25 sticking with its trial schedule. But the kind of publicity

1 that we're going to see after today -- the jurors have already
2 received jury questionnaires; they know who they are. And the
3 kind of publicity that we're going to see, I believe, is going
4 to make it very difficult to pull this trial off -- to begin
5 this trial in three weeks.

6 **THE COURT:** Now, the juror questionnaires -- which I
7 did supplement the usual questionnaires with the special longer
8 questionnaires that you and the other defendants asked to be
9 submitted were sent out; but they did not have the names of any
10 defendants on them. So they don't know, from those
11 questionnaires, who they're about.

12 **MR. GRAVES:** I understand that, Your Honor.

13 **THE COURT:** They might surmise who they're about.

14 **MR. GRAVES:** That would be my belief, is that with
15 this kind of publicity, this big a case, for Oxford, that they
16 would surmise. And that's something we can take up with the
17 Court. I'm not necessarily suggesting I want to take it up
18 right now. But I would want to take up the possibility of a
19 James hearing because our defendant -- what's a part of the
20 conspiracy would be very significant as to how we proceed with
21 this trial.

22 The 404(b) evidence, I think, takes on a whole different
23 light. Those are the kinds of things we're going to try to get
24 on file very quickly in light of what's happened here today.
25 But we can confer with the Government and discuss scheduling,

1 then perhaps confer with the Court about that, even later today
2 as far as when we might be able to get those on file.

3 THE COURT: Well, we've sent out 200 jury summonses
4 to be here March 31st, not just this division but throughout
5 the north half of the state. And it'll certainly be a waste of
6 effort to not use those jurors when they get here. But I'll
7 hear what you -- I'll let you confer with the Government; and
8 you can get back with me, say, within five days; and we'll take
9 it up again.

10 MR. GRAVES: Thank you, Your Honor.

11 THE COURT: Anything else from the Government?

12 MR. DAWSON: No, Your Honor.

13 THE COURT: All right. Thank you, gentlemen. We'll
14 be in recess.

15 (THE HEARING ENDED AT 11:12 A.M.)

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C E R T I F I C A T E

I, Rita Davis Sisk, RPR, BCR, CSR #1626, Official Court Reporter for the United States District Court, Northern District of Mississippi, was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I, Rita Davis Sisk, RPR, BCR, CSR #1626, have caused said stenographic notes to be transcribed via computer, and that the foregoing pages are a true and accurate transcription to the best of my ability.

Witness my hand, this 14th day of March, 2008.



RITA DAVIS SISK, RPR, BCR, CSR #1626
Official Court Reporter