

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO. 3:07CR192

RICHARD "DICKIE" SCRUGGS,
DAVID ZACHARY SCRUGGS,
SIDNEY A. BACKSTROM,
TIMOTHY R. BALDUCCI,
STEVEN A. PATTERSON

**GOVERNMENT'S RESPONSE TO
DEFENSE MOTION FOR CONTINUANCE**

Comes now the United States of America, by and through the United States Attorney for the Northern District of Mississippi, and in response to the defendants' joint motion to continue, would respectfully show unto the Court as follows, to-wit:

On December 17, 2007, defendants in the above-styled and numbered cause filed a joint motion to continue the trial date in the above styled and numbered cause, together with deadlines for pretrial motions and submission of plea agreements. Defendants aver that a number of items have not yet been produced in discovery and argue that an additional 90 to 120 days is necessary in order to effectively prepare for trial.

On December 5, 2007, the Court entered a scheduling order setting the matter for trial January 22, 2008. The Court further ordered that the government make discovery by December 27, 2007, and that pretrial motions be filed by January 7, 2008. On December 7, 2007, the government made available to all four remaining defendants a disc containing consensually monitored conversations between Tim Balducci, Sidney Backstrom, Zachary Scruggs and Richard "Dickie" Scruggs. On December 11, 2007, the Court granted a government motion for authority to release previously sealed search warrant affidavits and telephone conversations

recorded pursuant to court-authorized wire intercepts. On December 12, 2007, the government made available to the defense discs containing telephone conversations intercepted pursuant to court order, together with applications and affidavits for the search warrant of The Scruggs Law Firm. The government also made available applications and affidavits for Title III wire intercept authority as well as requests for extensions of that authority, together with the Court's orders granting same. Additionally, the government made available on that date copies of a cassette tape of a consensually monitored telephone conversation between Timothy Balducci and Sidney Backstrom. Finally, the government requested reciprocal discovery as provided by Rule 16, but to date has received no discovery from the defense.

On December 17, 2007, the government made available to the defense a September 27, 2007, recording of a conversation between Timothy Balducci and Circuit Judge Henry Lackey, together with videos of Balducci and Judge Lackey on October 18, 2007, and November 1, 2007. Also included in the discovery on that date were surveillance photos from September 27, 2007, and November 1, 2007. Additionally, the government provided to the defense certain documents related to expense transmittals from the Scruggs Katrina Group.

Although the discovery deadline is still six days away, the government has voluntarily made the bulk of discovery in this case. Evidence seized pursuant to the warranted search of The Scruggs Law Firm is still in the hands of a "taint" team from another jurisdiction, whose job it is to ensure that prosecutors in the Northern District of Mississippi do not receive any evidence that is privileged or outside the scope of the warrant. The evidence sought pursuant to that search warrant is relatively minor, and will be disclosed to the defense in supplemental discovery, if in fact it exists.

In summary, the government has voluntarily made discovery of most of the discoverable

materials in this case at this time, one week prior to the discovery deadline. Although no reciprocal discovery has been forthcoming from the defense, both sides understand their obligations under Rule 16. Furthermore, Rule 16 provides for supplemental discovery of those documents which become available to the prosecution after the discovery deadline but prior to trial. The government acknowledges its responsibility to supplement discovery as appropriate.

The government does not object to a continuance in this matter, but respectfully asserts that the case is straight forward and not sufficiently complex to require a protracted continuance.

Respectfully submitted,

JIM M. GREENLEE
United States Attorney

/s/ Robert H. Norman

By:
ROBERT H. NORMAN
Assistant United States Attorney
Mississippi Bar No. 3880

CERTIFICATE OF SERVICE

I, ROBERT H. NORMAN, Assistant United States Attorney, hereby certify that I electronically filed the foregoing **GOVERNMENT'S RESPONSE TO DEFENSE MOTION FOR CONTINUANCE** with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

eastlandlaw@bellsouth.net

tony@fareselaw.com

jkeker@kvn.com

trappf@phelps.com

This the 20th day of December, 2007.

/s/ Robert H. Norman
ROBERT H. NORMAN
Assistant United States Attorney