

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 11-40080-01-RDR

KENNETH C. SMITH,

Defendant.

O R D E R

This case is before the court upon defendant's motion requesting a teleconference or a postponement of a motions hearing set for October 28, 2011. Doc. No. 25. Defendant indicates that he is now residing in Virginia. For this and other reasons, defendant would like to postpone the motions hearing. The government has opposed defendant's request.

Upon review, the court shall continue the motions hearing to November 3, 2011 at 10:00 a.m. The court has already scheduled a status conference in this case for November 3, 2011. The court will simply combine the two matters on that date. The court shall maintain the trial date of November 8, 2011. This action should limit some of the inconvenience for defendant now that he lives in Virginia. The court shall deny the request for a teleconference. Because this order does not alter the trial date, the Speedy Trial Act deadlines are not affected by this ruling.

Although the court will conduct a hearing upon unresolved

matters on November 3, 2011, the court may rule upon some motions in advance of the hearing.

The court notes that the government has treated defendant's motion, in part, as a motion for discovery and made a separate response to that aspect of the motion. See Doc. No. 28. The court shall not rule upon any request for discovery in this order and, if defendant wishes to elaborate upon any discovery request in reply to the government, he should file a separate pleading by October 28, 2011. The court also notes that defendant asks for more time to complete a motion to dismiss the case due to prosecutorial misconduct. Defendant filed a motion to dismiss on October 24, 2011. Doc. No. 30. The court shall treat that motion as timely and grant the government time until October 31, 2011 to respond to it.

In conclusion, defendant's motion to continue is granted in part in conformity with this order. The court shall proceed under the new deadlines set forth herein.

IT IS SO ORDERED.

Dated this 25th day of October, 2011 at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge