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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)	
)	
Plaintiff,)	CR 10-00400-PHX-DGC
)	
vs.)	Phoenix, Arizona
)	February 9, 2011
Janice Sue Taylor,)	
)	
Defendant.)	

BEFORE: THE HONORABLE DAVID G. CAMPBELL, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

STATUS CONFERENCE

Official Court Reporter:
Patricia Lyons, RMR, CRR
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, SPC 41
Phoenix, Arizona 85003-2150
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Proceedings Reported by Stenographic Court Reporter
Transcript Prepared with Computer-Aided Transcription

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A P P E A R A N C E S

For the Government:

U.S. Attorneys Office
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15:30:55 1 P R O C E E D I N G S

2
3 THE COURTROOM DEPUTY: Criminal case 10-400, United
4 States of America versus Janice Sue Taylor. This is the time
15:37:11 5 set for status hearing.

6 MR. GALATI: Your Honor, Frank Galati and James Knapp
7 for the United States.

8 THE COURT: Good afternoon, counsel.

9 MS. TAYLOR: Janice Sue Taylor.

15:37:24 10 THE COURT: Good afternoon, Ms. Taylor.

11 MS. ANDERSON: Afternoon. Susan Anderson present as
12 advisory counsel.

13 THE COURT: All right. Good afternoon, Ms. Anderson.

14 This is our first hearing in this case. As you all
15 know, this case was transferred to me because Judge Murguia
16 has been appointed to the Court of Appeals and so her cases
17 have been reassigned, and this one was reassigned to me by
18 random draw.

19 I've gone back and I've looked over the docket in the
15:37:53 20 case to get some idea of what's happened up until now and I've
21 also read the transcript of the hearing that happened on
22 January 12th, which I think was your last hearing in front of
23 Judge Murguia.

24 At that hearing she set a trial date of March 15th
15:38:09 25 that we'll talk about in a moment. She made clear that there

15:38:13 1 were not to be other motions filed, that the deadline for
2 filing motions had passed, although there were a couple of
3 motions, Ms. Taylor, that you had filed that she said would be
4 completed. And she set a deadline for submitting things like
15:38:30 5 voir dire and jury instructions and for a final pretrial
6 conference.

7 I think what I would like to do first is talk to you
8 about the motions that are pending. There is a motion to
9 quash a subpoena that the government filed. The subpoena that
10 you had filed, Ms. Taylor, asked for the individuals who had
11 calculated the tax liabilities, and you indicated, counsel, at
12 the hearing before Judge Murguia that that was likely an
13 individual named Cheryl Bradley, that she would be at trial,
14 and you'd arrange an interview if Ms. Taylor wanted an
15:38:55 15 interview. Can you tell me what happened on that issue?

16 MR. GALATI: We expect Ms. Bradley to be our witness.
17 Not that "we expect," she will be. Unless something unforeseen
18 happens.

19 What we said to Judge Murguia was we would inquire to
15:39:31 20 Ms. Bradley if she would submit to an interview. And
21 Mr. Knapp and I just discussed this before you came in.
22 Neither of us knows the result of the inquiry that we believe
23 our agent made of her. We will do that in the next day if we
24 haven't done it already. I apologize for not having that on
15:39:48 25 the tip of my tongue here.

15:39:50 1 THE COURT: All right. But you do anticipate having
2 her at trial; is that right?

3 MR. GALATI: Yes. She will be a witness, Your Honor.

4 THE COURT: Ms. Taylor, at the hearing on January 12,
15:40:01 5 Judge Murguia indicated that if you wanted to respond to the
6 motion to quash you should do so by the 19th of January. You
7 didn't file anything in response, so I assume that was because
8 the government had indicated Ms. Bradley would be at trial.

9 MS. TAYLOR: No. I had talked to them on the day of
15:40:19 10 the appearance here and they said that they would ask her if
11 she would meet with me, and so I was kind of just waiting for
12 their response back. That's why I didn't respond to anything.

13 THE COURT: Okay. Well, I think the subpoena in the
14 form that it was prepared where it was served on the
15:40:37 15 prosecutors is not an appropriate form of a subpoena.

16 MS. TAYLOR: Well, I didn't know her address or how to
17 serve her.

18 THE COURT: I understand that. Typically what you can
19 do is you can subpoena somebody to come to trial. Obviously,
15:40:50 20 you won't need to do that because Ms. Bradley will be at trial.
21 As to whether or not Ms. Bradley will agree to interview, they
22 will get back to you on that. But in terms of the subpoena
23 itself, because of the form being on the prosecutors, I'll
24 grant the motion to quash the subpoena. That doesn't mean she
15:41:14 25 won't be at trial. She will be.

15:41:15 1 If you want to call her as a witness or cross-examine
2 her, you will have the right to do that. If she agrees to be
3 interviewed you'll be able to do that before trial as well.
4 If she doesn't agree to be interviewed and you think there's
15:41:25 5 some step that you ought to take, I would encourage you to
6 talk to Ms. Anderson about what steps can be taken to get you
7 the information that you need, and she can advise you on that.
8 But the form of the subpoena was inappropriate, so I'm going
9 to grant the motion to quash.

15:41:42 10 You filed, Ms. Taylor, a motion that, as I understand
11 it, really had two requests in it. It's the motion at Docket
12 177. One request that you made was that the court dismissed
13 the indictment based on the failure of the court to comply
14 with the jury selection procedures in 28 U.S.C. section 1867.
15:42:16 15 Or alternatively you ask to be given information that will
16 identify for you the location of the individuals who sat on
17 the grand jury.

18 I have read your motion. I have read the
19 government's response, and I have read the reply that you
15:42:33 20 filed, Ms. Taylor.

21 Do you have additional points you wanted to make on
22 that motion, Ms. Taylor?

23 MS. TAYLOR: I would just like to -- well, if you've
24 read them all, you know what I would like. I would like the
15:42:50 25 ZIP codes or counties or cities of each of the grand jurors to

15:42:57 1 be able to inspect where they live. What county they live in,
2 what city they live in according to law.

3 THE COURT: My understanding, Ms. Taylor, of your
4 reason for wanting that information is the argument that you've
15:43:08 5 laid out in these briefs that the grand jury members must
6 reside in the federal territory, that there's limited real
7 estate in Arizona that qualifies as a federal territory, and if
8 they don't live in that federal territory, if they live in
9 something that you consider not to be federal territory, then
10 in your view they're not properly on the grand jury.

11 MS. TAYLOR: That is my contention. That's what the
12 law says.

13 THE COURT: Okay. I understand that's your view of
14 the law.

15:43:39 15 Anything further, defense counsel -- I'm sorry,
16 government counsel wishes to say on this motion?

17 MR. KNAPP: No, Your Honor. We'll submit unless the
18 Court has any questions.

19 THE COURT: I'm going to deny the motion and I'm going
15:43:52 20 to deny the motion both as to the motion to dismiss and the
21 motion for information about location of grand jurors, and I'm
22 going to do it for this reason: The premise of the motion that
23 a grand jury member in the State of Arizona has to live in a
24 federal territory is not correct. It's legally incorrect.

15:44:11 25 I understand you disagree with me on that,

15:44:13 1 Ms. Anderson -- Ms. Taylor, excuse me. But my conclusion is
2 that it is incorrect.

3 28 U.S.C. section 1865(b) establishes the
4 requirements for jurors in the District of Arizona, or any
15:44:30 5 other district for that matter. The juror must be a citizen
6 of the United States, 18 years old, and reside within the
7 District of Arizona for one year.

8 This court has promulgated the jury selection plan
9 that specifies those criteria. Only people who meet those
15:44:47 10 criteria can be called to serve on either grand juries or
11 regular trial juries.

12 And therefore, I believe that all of the jurors are
13 qualified because they are residents of the District of
14 Arizona and that there is no legal requirement that they
15:45:04 15 reside in a federal territory as you have contended. And
16 since that's the premise for the motion and for seeking the
17 information, I'm going to deny the motion.

18 There's a second motion pending that you filed --

19 MS. TAYLOR: Your Honor, may I say something, please?

15:45:22 20 THE COURT: You may.

21 MS. TAYLOR: In this -- in my beliefs and reading the
22 organic laws of the United States of America, I have looked up
23 in Bouvier's -- Bouvier's? However you pronounce that -- and
24 it gives the definition of "district" to be construed to be --
15:45:44 25 to mean territory.

15:45:47 1 Also, in Ballentine's, the "district" means a word of
2 variable meaning in the law, a portion of the state with
3 limits set by law for the government purposes.

4 "Territorial" in Ballentine's means pertaining or
15:46:02 5 belonging to a territory of the United States.

6 And with that in mind, it appears to me that the
7 territorial composition as stated in 28 chapter 5, 81 through
8 131, is definitely speaking of the territorial composition
9 that is comparable to what they did in 1945. Which would lead
10 only to the states that are -- the states or districts or
11 territories that are federal because the United States is
12 owned by the United States of America as far as corporation is
13 concerned and it also only has jurisdiction only over the
14 federal territory of the United States of America. The United
15:46:30 15 States of America only has jurisdiction over that.

16 And so what -- I don't see how it can be -- have any
17 other meaning. Because the only thing that was in comparison
18 with the two territories, which is Hawaii and Alaska, and the
19 other one, the District of Columbia, and any of the other
15:47:21 20 territories, only thing those had in common with the states
21 was the federal territory. So it had to be the federal
22 territory they were talking about.

23 THE COURT: I understand that that is your belief and
24 that is the argument you've made. I disagree with it. It is
15:47:37 25 not a correct interpretation of the law, in my view. I believe

15:47:42 1 the District of Arizona is the district --

2 MS. TAYLOR: Okay.

3 THE COURT: -- that covers the State of Arizona.

4 That's where the jurors need to be from under 28 USC 1865(b),
15:47:54 5 and they are, so I'm going to deny the notion.

6 Now, the next motion you filed, Ms. Taylor, is the
7 motion to dismiss for lack of *in personam* jurisdiction. This
8 is Docket 179. You filed a lengthy motion and lengthy
9 attachments. The government filed a response at Docket 187,
10 and you filed a reply with lengthy attachments at Docket 194.

11 I have read the motion, the response, and the reply.

12 Do you have additional arguments you wish to make on
13 that motion, Ms. Taylor?

14 MS. TAYLOR: Well, I would like to have the
15 prosecutors or you, whoever is supposed to be in charge of
16 doing that, explain -- I have tried to explain to the best of
17 my ability as I understand the law the difference between the
18 United States of America and the United States. I am under the
19 impression that attorneys here believe that they're one in the
15:48:39 20 same. Perhaps they could give me some enlightenment to the
21 difference between them. Or why --

22 THE COURT: No, the purpose of this hearing,
23 Ms. Taylor, is not for your enlightenment, it's for you to make
24 legal arguments. Do you have legal arguments in support of the
15:49:02 25 motion at Docket 179 besides those you laid out in your motion

15:49:27 1

and reply?

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MS. TAYLOR: I do have legal arguments that are in the Constitution. I have legal arguments. But they're in here. I mostly put all of them in here.

15:49:34 5

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THE COURT: It was very thorough. You spent a lot of time typing it.

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MS. TAYLOR: Thank you.

THE COURT: Okay. So I take it you don't have additional legal arguments that you wish to make today?

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MS. TAYLOR: No, I believe that's all.

THE COURT: Okay.

MS. TAYLOR: I appreciate you taking the time to read it.

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THE COURT: You're welcome. I was impressed that you even found comments made at Duke Law School by Judge Sotomayor some years ago.

Do the prosecutors have any additional oral arguments?

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MR. KNAPP: Not unless the Court has questions, Your Honor.

THE COURT: All right.

There's much in here that is argued by Ms. Taylor. I think the bottom line are her arguments that she is not subject to the income tax statutes of the United States; that she is not subject to the jurisdiction of the IRS or the

15:50:31 1 jurisdiction of this court if the tax code is properly
2 construed; and that in fact the definitions would limit
3 citizens to places like Puerto Rico or other territories.
4 There are other arguments concerning the in personam
15:50:50 5 jurisdiction of this court over Ms. Taylor.

6 I'm going to deny the motion. I believe these
7 arguments have been clearly rejected by all of the federal
8 courts that have addressed them, including the Ninth Circuit
9 Court of Appeals in *United States versus Hanson*. Which is
15:51:06 10 H-A-N-S-O-N, 2F.3d 942; and *United States versus Studley*,
11 S-T-U-D-L-E-Y, 783 F.2d 934. Those are both Ninth Circuit
12 decisions.

13 There are a number of other cases from other circuit
14 courts and district courts that have rejected these arguments,
15:51:27 15 and I do not believe the arguments are well taken, therefore,
16 I will deny the motion to dismiss.

17 Let's talk for a minute about the trial date. Judge
18 Murguia set the trial in this case for March 15th.
19 Unfortunately, that does not work on my calendar. I have
15:51:56 20 another trial that week and another -- actually I'm finishing
21 a civil trial on the 16th, but I couldn't start one, a
22 criminal trial, on that 15th because I start another criminal
23 trial on the 17th. I'm booked the last week -- the next to
24 last week and last week of March. And so I need to look at
15:52:14 25 April for a time to set this trial.

15:52:20 1 What I want to do is ask this question: Mr. Galati
2 and Mr. Knapp, you indicated in the hearing with Judge Murguia
3 that you thought the government's case would take about five
4 days. Is that correct still?

15:52:32 5 MR. GALATI: Yes, Your Honor.

6 THE COURT: All right. Ms. Taylor, do you have a
7 sense for how much trial time you will be taking for purposes
8 of scheduling this trial? In terms of your defense.

9 MS. TAYLOR: Well, Your Honor, I plan on appealing
15:52:46 10 this and I plan on appealing it all the way up to the Supreme
11 Court if necessary.

12 THE COURT: I understand that. What I was asking was
13 not your future plans, but for purposes of the trial that will
14 be held in this courtroom, do you have a sense for how much
15:53:02 15 time you will need for your defense after the government rests?

16 MS. TAYLOR: Well, I don't see how you can take me to
17 trial until this is resolved. This is my liberty and my
18 rights. I don't see how you can force me into a trial without
19 having it being resolved. Your opinion and my opinion are
15:53:21 20 different on this issue. However, I'm allowed to go to appeals
21 to have a higher court look at it and see exactly if I'm
22 eligible or if I'm able to -- I should be able to question the
23 grand jury.

24 THE COURT: I understand you disagree with my views,
15:53:44 25 and you will have an opportunity to appeal them after the final

15:53:48 1 judgment is entered in this case. The final judgment will be
2 entered after trial, so we are --

3 MS. TAYLOR: How can --

4 THE COURT: -- go to trial --

15:53:54 5 MS. TAYLOR: Excuse me, Your Honor. How can you take
6 me to trial without having a qualified jury list?

7 THE COURT: Well, we do have a qualified jury list. I
8 ruled against you on that. So we will be going to trial and we
9 will be going to trial in the month of April. So for purposes
10 of scheduling, the question I have is how much time do you
11 think you'll need in your defense?

12 MS. TAYLOR: Well, I will need, if it goes to trial, I
13 have been talking to two very prominent attorneys and they will
14 need time probably to look at it is what they have told me.

15:54:26 15 THE COURT: What are they going to be doing?

16 MS. TAYLOR: They will be representing me. I'm not
17 going to be representing myself in any trial.

18 THE COURT: Well, you've indicated in this case
19 throughout that you are representing yourself and Judge Murguia
20 gave you very thorough warnings about that that you
21 acknowledged and said you wanted to represent yourself.

22 MS. TAYLOR: I said originally I would be representing
23 myself while I'm looking for an attorney.

24 THE COURT: Well, Judge Murguia indicated, Ms. Taylor,
15:54:51 25 back on January 12th that she was not going to delay the trial

15:54:56 1 while you found an attorney. I'm not going to either. We're
2 not going to postpone this trial while you search for an
3 attorney. We're going to trial in April.

4 MS. TAYLOR: Well, I have two attorneys already lined
15:55:06 5 up, but I don't know if they can come in April or not.

6 THE COURT: Well, we're going to trial on the date
7 that I set for trial. And you've chosen to represent yourself
8 and you will represent yourself at trial if you don't have
9 lawyers to represent you at that point. But if you get a
10 lawyer who comes in to represent you and he asks for a
11 continuance of the trial date, I'm going to say no. So as you
12 talk to these lawyers, they need to understand if they're going
13 to represent you they need to be ready on the day we go to
14 trial.

15:55:35 15 Now, I'll ask you one more time: Do you have a sense
16 for how much time you'll need for your defense? If you don't,
17 that's fine, but if you do, I'd like to factor it in in terms
18 of the calendar days we set aside.

19 MS. TAYLOR: I would assume maybe five days also, more
15:56:16 20 than theirs. At max.

21 THE COURT: Do you have a sense for what you're going
22 to be doing during those five days? Do you have a long list of
23 witnesses you're going to call?

24 MS. TAYLOR: I do.

15:56:28 25 THE COURT: These will be witnesses on the issues the

15:56:30 1 government's presenting?

2 MS. TAYLOR: Right.

3 THE COURT: So, for example, I assume, although I
4 haven't heard from the government yet, I assume they're going
15:56:36 5 to present witnesses to establish the fact that you received
6 income during certain years and to establish the fact that you
7 didn't file tax returns. Is it your intent to have witnesses
8 that will respond to that and say, no, you didn't receive
9 income? Or do you know?

15:56:53 10 MS. TAYLOR: I'm not sure quite what they will respond
11 to at this time because I don't know exactly what they're going
12 to ask.

13 THE COURT: Okay.

14 Give me just a minute to look at the calendar.

15:58:41 15 All right. What I would like to do -- Mr. Galati,
16 did you want to say something just then? You looked like you
17 were about to stand up.

18 MR. GALATI: Your Honor, I just -- I do have a trial
19 set in April I wanted to talk to you about.

15:58:54 20 THE COURT: Go ahead and tell me what the issue is.

21 MR. GALATI: On April the 5th I have two trials set in
22 Judge Bolton's court. Each of them is a tax case. Each of
23 them -- same defendants. I will, for shorthand, call that
24 defendant also a tax protestor. She's in custody. Has been
15:59:14 25 since last summer. The first -- the tax case is from 2006.

15:59:19 1 She absconded for four years. She was picked up last summer.
2 She was charged with failure to appear. So those are the two
3 cases. Judge Bolton said it will go to trial April 5th because
4 this lady's been in custody since last summer.

15:59:32 5 And what I expect there is a minimum of three days --
6 two days, three days, and a maximum of week and a half. I
7 expect them to be tried back to back, unless, to be as candid
8 with you as I can without being in concrete about it, if we
9 try the failure to appear case first and it goes one way, the
15:59:56 10 second case may not get tried at all if I get permission from
11 the higher-ups concerning that. But that case is going on
12 April the 5th.

13 THE COURT: Well, I was about to suggest we start this
14 trial on April 12th, which is the following Tuesday. I guess
15 that is problematic for you because of the possibility of that
16 case going more than a week?

17 MR. GALATI: Right now I would say it is problematic.
18 It might not be if only one of those two cases gets tried. If
19 the two-day failure to appear case goes the I would expect it
16:00:38 20 to be and the hierarchy in my office and above in Washington
21 says it's all right not to try the other case, then I won't.

22 THE COURT: But you won't know that until that week,
23 right?

24 MR. GALATI: I guess that's correct, Your Honor, yes.
16:00:55 25 And the reason why -- if I might continue, I apologize -- the

16:00:57 1 reason why that case got put in -- it was Judge Bolton's
2 preference to try it in May. I'm going to be gone in May. I'm
3 going to be out of the country in May and so she put it April
4 the 5th. That's where I am. And if we need to do something to
16:01:12 5 accommodate the Court, we'll do it, of course, but --

6 THE COURT: All right. What about if we were to start
7 this trial on April 19th, setting aside the days of the 19th,
8 which is a Tuesday, through the 22nd of that week, and then the
9 following week the 26th through the 29th. So we'd have a total
16:02:38 10 of eight trial days blocked out on the calendar and it would be
11 Tuesday through Friday on each of those weeks.

12 MR. GALATI: That should work for us, Your Honor.

13 THE COURT: Ms. Taylor, are you available on those
14 days?

16:02:57 15 MS. TAYLOR: I believe so.

16 THE COURT: Okay.

17 All right, what I'd like to do, then, is set the
18 trial for those days, to start on April 19th. Let me check
19 one other matter before we do that.

16:03:13 20 (The Court and the courtroom deputy confer.)

21 THE COURT: All right. What I'd like to do --
22 Ms. Taylor, did you want to say something?

23 MS. TAYLOR: Yes, Your Honor. Could I -- do I have to
24 actually confirm those dates right now? Because I don't have
16:03:38 25 my calendar here with me and I do go play in church groups and

16:03:42 1 I'm not sure if any one of those dates have got me booked or
2 not.

3 THE COURT: When you say you play in church groups,
4 what do you mean by that?

16:03:49 5 MS. TAYLOR: I play. I play music in the church
6 groups. I'm part of their choirs. I'm kind of the lead,
7 actually.

8 THE COURT: Do you travel?

9 MS. TAYLOR: From churches around here. Local
16:04:01 10 churches.

11 THE COURT: And would those be during the week
12 usually?

13 MS. TAYLOR: Sometimes they are. We have a revival
14 coming up and I'm not sure what date it is. I didn't bring my
16:04:10 15 calendar, so I don't know exactly.

16 THE COURT: Okay. Well -- just one minute.

17 (The Court and the courtroom deputy confer.)

18 THE COURT: Lisa informs me the speedy trial clock
19 runs on April 19th. So we need to start trial that day.

16:04:35 20 Do you understand what that means, Ms. Taylor, the
21 speedy trial --

22 MS. TAYLOR: Yes.

23 THE COURT: -- requirement?

24 We need to start this trial by the 19th. We also
16:04:45 25 need to start it for the reason that if the prosecutor is not

16:04:47 1 available in May, we wouldn't be able to try this case until
2 the summer, which I do not want to do. So we will set it for
3 the 19th through the 22nd, and 26th through 29th.

4 Now, if you find, Ms. Taylor, there's a problem with
16:05:05 5 the church event you're involved in, what I would suggest you
6 do is get one of the two assistant U.S. attorneys on the phone
7 and call my office and let's about it. It may be we can work
8 around a particular event if you have one during that two
9 weeks and I'll try to accommodate it.

16:05:23 10 But I'm setting aside eight days because of the fact
11 that you believe you're going to present some significant
12 defense. My experience is that trials usually take less time
13 than lawyers estimate. So with the government estimating five
14 days and you estimating five days, I'm thinking we can do it
16:05:40 15 in eight rather than ten. So I'm setting aside eight days.

16 My point is we really need that time, but if there's
17 flexibility that will allow us to accommodate your
18 involvement, we can do it. I mean, for example, if it's an
19 evening performance and you need to leave trial by 4 o'clock
16:05:56 20 some day rather than later, we'll adjust the schedule.

21 MS. TAYLOR: I appreciate that.

22 THE COURT: I'd like to set a final pretrial
23 conference in this case for 2 p.m. on Friday, April 1st, if
24 that works. Does that work for government counsel?

16:06:41 25 MR. GALATI: Yes, Your Honor.

16:06:42 1 THE COURT: How about for you, Ms. Taylor?

2 MS. TAYLOR: Yes.

3 THE COURT: Now, the final pretrial conference will be
4 the conference at which we just cover the final issues for
16:06:53 5 trial. I will give you at that conference, for example, the
6 proposed voir dire questions for the jury, we'll talk about the
7 length of trial, we'll make sure we've got witness lists. I'll
8 give you preliminary jury instructions at that final
9 conference. It won't be long, but it will be just to make sure
16:07:15 10 everything is set for the trial to begin on the 19th.

11 The order that Judge Murguia had previously entered
12 called for each side to submit proposed voir dire and jury
13 instructions by this Friday, February 11. I think the
14 government's already submitted some, if I'm -- or did you say
16:07:36 15 you were going to do it by this Friday?

16 MR. GALATI: We're prepared to do it. We sent them
17 over to the defense last week.

18 THE COURT: Okay. We can extend that out a little bit
19 because we're extending the trial date. So what I'll do is
16:07:48 20 move that date for submitting voir dire and jury instructions
21 to March 11. So that is about a month extension.

22 Ms. Taylor, do you understand what I mean when I say
23 voir dire and jury instructions?

24 MS. TAYLOR: Ms. Anderson has been trying to explain
16:08:17 25 that to me.

16:08:18 1 THE COURT: She's a good resource. She'll be able to
2 help you understand what those are and how they're used. She's
3 tried a case in this court, so she understands the practices I
4 follow, so she can help you on all of that.

16:08:31 5 All right, do counsel for the government have other
6 matters you would like to raise?

7 MR. GALATI: Your Honor, we would like, if you would,
8 please, if you could set a deadline for disclosure of any kind
9 of expert witness that the other side might have. We'll
16:08:53 10 certainly -- we've sent them a witness list of ours already and
11 we'd like the same, if possible.

12 THE COURT: Do you anticipate you'll be using an
13 expert witness in the case?

14 MS. TAYLOR: I do.

16:09:06 15 THE COURT: More than one?

16 MS. TAYLOR: Probably.

17 THE COURT: I think it is reasonable to give notice to
18 the government of expert witnesses so they can prepare an
19 expert on the topic if they decide to do it.

16:09:19 20 I think what I would normally do would be require
21 that by the same date, March 11. So that means you need to
22 identify who you intend to call as experts and subjects on
23 which they will testify and give that to the government, and
24 then they have fair warning of what experts they might need.

16:09:39 25 I assume the government's disclosed any experts

16:09:41 1 you're going to use already.

2 MR. GALATI: Yes, Your Honor, we have.

3 THE COURT: You didn't get it?

4 MS. TAYLOR: No, not yet.

16:09:52 5 THE COURT: Would you make sure, counsel, Ms. Taylor
6 gets that disclosure.

7 MR. GALATI: Yes.

8 THE COURT: So we will set that date, March 11, as
9 well for the expert disclosures. And I'm doing that with the
16:10:02 10 assumption that the government expert disclosures have been
11 made.

12 Anything else from government counsel?

13 MR. GALATI: Your Honor, just to let you know,
14 certainly we will try to pare down our witness list. And we
16:10:18 15 thought five days was a generous amount of time. We'll do our
16 very best to try it in fewer days than that.

17 THE COURT: All right.

18 Ms. Taylor, do you have other matters you would like
19 to raise today?

16:10:34 20 MS. TAYLOR: Are you supposed to give me an appealable
21 order then? Is this an appealable order you're giving me?

22 THE COURT: No. The final judgment in this case will
23 be appealable.

24 MS. TAYLOR: So this means I can't appeal it until
16:10:46 25 after trial?

16:10:47 1 THE COURT: Well, you can try, and Ms. Anderson can
2 talk to you about that. There are rules in the federal system
3 about when appeals can be taken from nonfinal orders. They're
4 call interlocutory orders. That's a fancy legal word for an
16:11:02 5 order that's not final. There are some limited circumstances
6 under which appeals are allowed. But they're narrow. They are
7 not allowed normally.

8 And the idea behind that law is simply that cases
9 shouldn't be appealed repeatedly to a Court of Appeals at
16:11:19 10 different stages in the case. The case should be concluded
11 and then all issues appealed.

12 So in criminal cases the normal appeal occurs after
13 the final judgment. And in a criminal case, if there's a
14 conviction it occurs after the sentence has been imposed.

16:11:34 15 But if you decide in consultation with Ms. Anderson
16 that you want to attempt an appeal, you've got the right to
17 attempt what you choose to do. So I can't give you legal
18 advice on that issue. But my view is that the orders that I
19 have entered and Judge Murguia has entered are interlocutory
16:11:54 20 orders. They're not final judgments.

21 Did you have any other questions or matters you
22 wanted to raise?

23 MS. TAYLOR: The other dates on the 22nd, those will
24 all be vacated, right?

16:12:19 25 THE COURT: Right. The existing trial date, the

16:12:22 1 final -- I'm sorry. The trial date of March 15, the final
2 pretrial conference of February 22nd, and the voir dire and
3 preliminary instructions deadlines of this Friday will be
4 vacated. And these new dates will apply.

16:12:36 5 MS. TAYLOR: All right. I believe that's all I have.

6 THE COURT: Okay. Okay, thanks very much. We'll
7 issue a minute entry on this.

8 (End of transcript.)

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C E R T I F I C A T E

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3 I, PATRICIA LYONS, do hereby certify that I am duly
4 appointed and qualified to act as Official Court Reporter for
5 the United States District Court for the District of Arizona.

6
7 I FURTHER CERTIFY that the foregoing pages constitute
8 a full, true, and accurate transcript of all of that portion
9 of the proceedings contained herein, had in the above-entitled
10 cause on the date specified therein, and that said transcript
11 was prepared under my direction and control, and to the best
12 of my ability.

13
14 DATED at Phoenix, Arizona, this 22nd day of February,
15 2011.

16
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18
19
20 s/ Patricia Lyons, RMR, CRR
21 Official Court Reporter
22
23
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