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9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF ARIZONA

11 United States of America,  
12 Plaintiff,  
13 v.  
14 Janice Sue Taylor,  
15 Defendant.

CR-10-00400-PHX-DGC  
**UNITED STATES' RESPONSE FOR  
STAY OF TRIAL**

16 Taylor has filed a Notice of Interlocutory Appeal to the Ninth Circuit. She also filed her  
17 Demand for Stay of Trial until that interlocutory appeal has been decided [doc. 198]. The United  
18 States respectfully files this response opposing the requested stay of proceedings.

19 On February 9, 2011, the Court heard argument on Taylor's Motion to Provide for  
20 Inspection of Jury List [doc. 177]. Taylor now demands a stay of proceedings while she pursues  
21 Court of Appeals' relief from this Court's order denying that motion [doc. 195]. The requested  
22 stay should be denied because Taylor is attempting to appeal an order of this Court that is not  
23 reviewable at this time. To grant a stay while Taylor futilely pursues relief from an Order that  
24 the Court of Appeals will not review does nothing more than unnecessarily delay resolution of  
25 this case.

26 As the Court told Taylor near the conclusion of the February 9<sup>th</sup> hearing, the denial of her  
27 motion to inspect the jury list is not a final judgment and is, therefore, not properly appealable.  
28 The Court of Appeals has jurisdiction to review "all final decisions of the district courts." 28

1 U.S. C. §1291. In criminal matters, with a few statutory exceptions that are not applicable here,  
2 “final decisions of the district courts” means imposition of sentence. *See* 18 U.S.C. §3742.

3 Here, Taylor is attempting to take an interlocutory appeal to the Court of Appeals. Such  
4 appeals in criminal cases are more severely limited than those in civil cases. Indeed, the statutes  
5 most heavily relied upon for the taking of interlocutory appeals in civil cases do not apply to  
6 criminal cases by their very terms. *See* 28 U.S.C. §§1292 (a), (b).

7 Adherence to the finality requirement in criminal cases has been a bedrock of Supreme  
8 Court jurisprudence for more than 70 years.

9 These considerations of [finality] policy are especially compelling in  
10 the administration of criminal justice. . . . An accused is entitled to  
11 scrupulous observance of constitutional safeguards. But encouragement  
12 of delay is fatal to the vindication of the criminal law. Bearing the  
13 discomfiture and cost of a prosecution for crime even by an innocent  
person is one of the painful obligations of citizenship. The correctness  
of a trial court’s rejection even of a constitutional claim made by the  
accused in the process of prosecution must await his conviction before  
its reconsideration by an appellate tribunal.

14 *Cobbledick v. United States*, 309 U.S. 323, 325-326 (1940). Neither Taylor’s Notice of  
15 Interlocutory Appeal nor her Demand for Stay cites any law which permits for review of the  
16 February 9, 2011 order at this juncture.<sup>1/</sup> Because nothing more than unwarranted delay will  
17 result from the granting of Taylor’s demand, the United States respectfully asks that relief be  
18 denied.

19 Respectfully submitted this 16<sup>th</sup> day of February, 2011.

20 DENNIS K. BURKE  
21 United States Attorney  
22 District of Arizona

23 *s/ Frank T. Galati*

24 FRANK T. GALATI  
25 JAMES R. KNAPP  
26 Assistant U.S. Attorneys

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27 <sup>1/</sup> Rule 3(a)(1) provides for the taking of an “appeal permitted by law as a right from a  
28 district court to a court of appeals...”

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Certificate of Service

I hereby certify that on 2/16/2011, I mailed copies of the attached document to the following:

Janice Sue Taylor  
3341 Arianna Ct.  
Gilbert, AZ 85298

s/ Michelle L. Colberg