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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NUMBER 12-CR-60049-KMW

UNITED STATES OF AMERICA

vs.

ROGERIO CHAVES SCOTTON,

Defendant

STATUS CONFERENCE HELD 7-27-12
BEFORE THE HONORABLE KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: **BERTHA MITRANI, A.U.S.A**
500 East Broward Boulevard
Fort Lauderdale, FL 33301

FOR THE DEFENDANT: **ROBERTO ABREU, ESQ.**
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REPORTED BY: **PATRICIA SANDERS, RPR**
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1 THE COURTROOM DEPUTY: This Court calls Case No.
2 12-CR-60049, United States of America versus Rogerio Scotton.
3 Counsel, please state your appearances.

4 MS. MITRANI: Good morning, Your Honor, Bertha Mitrani
5 on behalf of the United States.

6 THE COURT: Good morning, Ms. Mitrani.

7 MR. ABREU: Good morning, Your Honor, Robert Abreu on
8 behalf of Rogerio Scotton.

9 THE COURT: The record should reflect that Mr. Scotton
10 is here in the courtroom. He was inadvertently brought over
11 for the hearing, so he is with us here in court today.

12 This case is on today for status conference. We have
13 a trial coming up shortly, and there have been no motions
14 filed. I am assuming either we are fully prepared to go to
15 trial and there will be no motions forthcoming or there is some
16 other situation that I should probably be aware of.

17 MR. ABREU: If I may, Your Honor, I am having an issue
18 with my client as far as funding for the case.

19 Number one, he has not provided any money for the
20 expenses. I went to the prosecutor's office in Broward to
21 review discovery. To the best of my recollection she had five
22 or six banker's boxes of documents that I ordered to be scanned
23 and placed on searchable CDs.

24 That bill is about \$785, and it's been outstanding for
25 about a month. I have been over several times to talk to my

1 client. The money is not forthcoming. I have already paid for
2 transcripts out my pocket. I am just not willing to keep
3 funding his defense.

4 I need to also hire an investigator, which based on
5 what I believe or perceive needs to be done in the case it will
6 run somewhere between 1500 to \$200.

7 There are also documents in Portuguese that I need to
8 obtain certified translations for. That needs to be done before
9 I can even contemplate filing any motions.

10 The items that are in the prosecutor's office are over
11 500 pages that I need to individually go through with him; that
12 is one issue.

13 The second issue is that there's been no payment of my
14 attorney's fees, aside from a minimal payment that was paid to
15 induce me to take the case.

16 I have given him extension past extension past
17 extension. I spoke to his brother yesterday and there was
18 supposed to be a check delivered at nine a.m. to my office.

19 It's just a string of broken promises. At this point I
20 my hands are tied. And I have told my client, you have to help
21 me to help you.

22 At this point I am doing him a disservice because I do
23 not have access to the discovery that he needs. And as I said
24 I cannot continue to fund the case out of my own resources. I
25 cannot do it, Your Honor.

1 I am glad he is present for this hearing, quite
2 frankly. I was going to ask Your Honor to reconvene to speak
3 to my client and determine whether he could perhaps be
4 appointed the Public Defender or CJA counsel.

5 THE COURT: Let me say this -- and I understand your
6 frustration -- but I probably would have understood it better
7 if you had actually filed a motion setting it out before I sui
8 sponte put this on calendar because I had not seen anything
9 happening on this case.

10 We're a month away from a trial date. You are, in
11 fact, successor counsel. You came in after a trial date was set
12 and I granted a continuance in this case.

13 So to say I am a little put out that this is coming to
14 light because I reviewed the file and thought, wait a minute,
15 nothing is going on in this case is putting it mildly.

16 So what are you asking for here? Are you going to
17 being filing a motion to withdraw?

18 MR. ABREU: If I may address the first part first, Your
19 Honor?

20 THE COURT: Sure.

21 MR. ABREU: I did not file a motion because I believed
22 I would have been paid by the calendar call today. I believed
23 I would have had a check in my office.

24 And so I would have made an effort to be ready on the
25 27th, Your Honor.

1 THE COURT: Okay. Somebody used a phrase the other
2 day; this is not our first time at the rodeo. So I don't think
3 even if you got your check today, in light of the first factor
4 which you listed, all that needs to be done and all of the
5 discovery, that you would be ready for trial.

6 Having said that, will you be filing a motion to
7 withdraw?

8 MR. ABREU: If Your Honor would allow I will file one
9 within 15 minutes after this hearing is concluded.

10 THE COURT: Mr. Scotton, do you understand what is
11 happening here?

12 And I do not want you to say anything uncounseled. But
13 do you understand that your lawyer is asking to withdraw from
14 the case?

15 THE DEFENDANT: Your Honor, am I allowed to say
16 anything at all? He took \$20,000 of my money and has done
17 nothing --

18 THE COURT: Please stop talking. Your lawyer is a
19 retained lawyer who has asked to withdraw so that is all I
20 really need to know at this point.

21 In this district when retained lawyers ask to withdraw
22 there is something known as a Tjoflat hearing that has to
23 occur.

24 So, what I will do is refer this matter to a
25 Magistrate Judge who will examine the issue as to payment and

1 all that is attendant to that, and he or she will recommend to
2 me whether or not the motion should be granted and/or what
3 should happen in that regard.

4 The question of how much money your lawyer has been
5 given, that will all be fleshed out in another proceeding. But
6 the first step is he files this motion.

7 Do you understand that.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: What I hear Mr. Abreu saying is that this
10 afternoon he will file the motion. I am going to refer it to a
11 Magistrate Judge and ask him or her to set it down for hearing.

12 If it is found that you should receive new counsel and
13 you don't have the money the Court will appoint a lawyer to
14 represent you because you need to have a lawyer.

15 Hopefully that will be done in the next few weeks. But
16 it's not going to be done in time for your August 27th trial
17 date.

18 THE DEFENDANT: May I ask a question?

19 THE COURT: Sure.

20 THE DEFENDANT: The hearing is going to be here in
21 Miami?

22 THE COURT: I believe since you are housed in Miami it
23 will be here in Miami.

24 THE DEFENDANT: Thank you.

25 THE COURT: Ms. Mitrani, do you have any thoughts on

1 this issue or anything you would like to add at this juncture?

2 MS. MITRANI: Your Honor, obviously this issue of
3 counsel is something that is between the defendant and his
4 lawyer, and the Court will have to decide whether or not to
5 grant Mr. Abreu's leave to withdraw.

6 My only concern is, Your Honor, we are traveling under
7 this August 27th trial date, we're issuing subpoenas and
8 getting ready for trial.

9 So, it would be helpful to the Government to know
10 whether or not we will be going to trial on that date earlier
11 rather than later in terms of coordinating our witnesses.

12 THE COURT: I think it is safe for you to withdraw
13 your subpoenas. Even if a Magistrate Judge recommends, and I
14 determine Mr. Abreu is to stay on the case, by his own
15 assessment there is much to be done in terms of preparation and
16 discovery. It can't be done within the next three or four
17 weeks.

18 At some point there will of course be a finding as to
19 any speedy trial waiver. But I think at this point it's safe
20 to assume we are not going to be going forward to trial on
21 August 27th.

22 MS. MITRANI: I realize this is not the forum to
23 address the final determination of when the case will be tried,
24 but I would ask the Court to keep in the back of its mind I
25 have a six defendant trial starting October fourth in front of

1 Judge Dimitrouleas. I just wanted to bring that to the Court's
2 attention because that will obviously have an impact on when
3 this case gets tried.

4 THE COURT: I appreciate that, Ms. Mitrani. All
5 right. I just want to let everyone know, if they do not know
6 this already, this is a Fort Lauderdale case. Myself along with
7 another Judge also handle Fort Lauderdale matters.

8 I think in terms of at least this upcoming hearing,
9 because I know how disruptive it can be to the Marshals and the
10 defendants in terms of moving them around, I am going to ask a
11 Miami Magistrate to handle this.

12 I don't think the Government has a dog in this fight,
13 but if you do you can have a substitute dog attend this
14 hearing. I will of course give everyone notice of the date.

15 I will keep you here, Mr. Scotton, so you don't have
16 to travel back and forth.

17 THE DEFENDANT: I'm sorry if I said something wrong, I
18 never been in this position before, I couldn't understand.

19 THE COURT: All right. Hopefully once we resolve the
20 question of who your lawyer is he or she will be able to bring
21 you up to speed.

22 All right. Is there anything else from either of the
23 parties?

24 MR. ABREU: As far as my motion, I don't want to be
25 the one to air dirty laundry, would Your Honor like me to file

1 something sealed or would a general motion to withdraw suffice
2 and we can take up the particulars at the Magistrate hearing?

3 THE COURT: I think that would suffice, and if more
4 detail needs to be had the Magistrate can ask the Government to
5 step out at that point.

6 All right. I will look for that motion this afternoon,
7 Mr. Abreu.

8 MR. ABREU: Yes, Your Honor.

9 THE COURT: We're adjourned.

10 HEARING CONCLUDED

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of proceedings in the above-entitled matter.

/S/PATRICIA SANDERS

DATE FILED

PATRICIA SANDERS, RPR

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