

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 09 CR 002-2
v.)	Judge Glen H. Davidson
)	Magistrate Judge S. Allan Alexander
BOBBY B. DELAUGHTER)	
)	
Defendant.)	

**DEFENDANT’S UNOPPOSED MOTION FOR AN EXTENSION
OF TIME WITHIN WHICH TO FILE ADDITIONAL PRETRIAL MOTIONS**

Defendant, **BOBBY B. DELAUGHTER**, by and through his attorneys, **THOMAS ANTHONY DURKIN, JOHN D. CLINE, and LAWRENCE L. LITTLE**, pursuant to the Due Process and Effective Assistance of Counsel provisions of the Fifth and Sixth Amendments to the Constitution of the United States, respectfully moves this Court for a fourteen (14) day extension of time within which to file additional Pretrial Motions that may become necessary based upon further defense investigation and receipt of additional discovery documents.

In support of this motion, Defendant, through counsel, shows to the Court the following:

1. Counsel have timely filed simultaneously herewith five pretrial motions, captioned as follows:
 - (i) Defendant’s Motion For District Wide Venire & Proposed Questionnaire;
 - (ii) Defendant’s Motion For Immediate Disclosure of Favorable Evidence;
 - (iii) Defendant’s Motion to Renew His Previously Filed Motion For a Bill of Particulars;
 - (iv) Defendant’s Motion For Immediate Disclosure And Production of 404(b) Material; and,
 - (v) Defendant’s Motion For Immediate Production of §3500 Material; or in The Alternative For an Extension of Time Within Which to Respond to

the Government's Combined Memorandum of Authorities And Motion In Limine.

2. The government just last week or early this week was able to ship the entire court file in the underlying Hinds County civil case of *Wilson v. Scruggs*, to attorney Cline in San Francisco. In addition, AUSA Bob Norman was travelling to Tupelo late this week to review the FBI's complete file in order to complete its Rule 16 obligations and other discovery matters upon which counsel have be able to agree.

3. In addition, it has recently come to undersigned counsel's attention based upon prejudicial articles published in the Jackson *Clarion Ledger*,¹ that further irregularities may well have occurred in the conduct and supervision of the grand jury in this matter. See, Defendant DeLaughter's Motion for Inspection of Grand Jury Minutes, previously filed on March 26, 2009, which the parties have requested that the Court defer ruling. These articles point to the issue of whether the grand jury could be said to have been improperly used for civil investigative purposes in the Hinds County civil matter of *Eaton Corp, et al., v. Robert D. Frisby, et al.*, is something that requires further investigation before it can be adequately addressed and presented. As such, counsel would again ask the Court to defer ruling on the motion for inspection of the grand jury minutes as it may well yet be supplemented and modified.

4. The *Eaton v. Frisby* civil matter is a matter the government has suggested might be raised in connection with its presentation of Rule 404(b) evidence. To date, however, the

¹ As mentioned in Defendant's motion for a jury questionnaire, filed simultaneously herewith, these articles are: (1) an extremely misleading and inaccurate June 10, 2009, story regarding the existence of plea negotiations between Defendant and the government attorneys; (2) an *ad hominem* July 5, 2009 story regarding the fact that Judge DeLaughter remains suspended with pay that incorrectly suggests that this is the doing of Judge DeLaughter; and, (3) a July 9, 2009, article detailing a deposition transcript of Co-Schemer Timothy Balducci taken by the lawyers for the Frisby Corporation in the matter of *Eaton Corporation, et al., v. Jeffrey D. Frisby, et al.*, Civil Action No. 251-04-642-CIV, currently pending in the Hinds County Circuit Court.

defense has not received any formal notice as required under the rule. This may well require the filing of additional pretrial motions in addition to my motions regarding the grand jury.

5. Further, and as was unexpected when undersigned counsel asked for the last motion schedule, Attorney Cline has been continuously engaged in a complex criminal jury trial in the United States District Court for the Southern District of New York since June 1, 2009. At the time of the filing of this motion Mr. Cline remains in New York awaiting the jury's deliberation. Mr. Cline's input is critical in the drafting and preparation of the grand jury motion and/or any further additional pre-trial motions. In addition, Mr. Cline is responsible for the review of the court file in the *Wilson* case and has obviously been unable to attend to this matter in light of his engagement in New York and the recent delivery of the documents. This review may, too, necessitate the filing of additional pre-trial motions.

6. In addition, counsel have made an extensive formal discovery request upon the government by letter dated March 24, 2009, and AUSA Norman has not yet completed his response to all the agreed upon requests. It is anticipated that once he has obtained the documents in Tupelo these discovery documents will be produced, which may also lead to the filing of additional pre-trial motions.

7. Accordingly, undersigned counsel would request an additional fourteen (14) days to file any additional pretrial motions which may be necessary as a result of the receipt of further discovery. AUSA Norman has indicated that counsel can inform the Court that the government has no objection to this request for an extension of time.

8. This motion is made in good faith and not for purposes of delay, and will not interfere with the currently scheduled trial date of August 17, 2009.

Respectfully submitted,

/s/ Thomas Anthony Durkin
THOMAS ANTHONY DURKIN,

/s/ John D. Cline
JOHN D. CLINE,

/s/ Lawrence L. Little
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Defendant DeLaughter's Unopposed Motion For an Extension of Time Within Which to File Additional Pretrial Motions was served on July 10, 2009, in accordance with Fed.R.Crim.P.49, Fed.R.Civ.P.5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

/s/ Thomas Anthony Durkin

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