

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

RYU XIONG,

06-CR-72-S-01

Defendant.

Defendant Ryu Xiong moved to dismiss Count 1 of the indictment which charges him with conspiracy to import unlawfully a protected raptor. The government opposed this motion. On July 7, 2006 the Honorable Stephen L. Crocker, United States Magistrate Judge, recommended that defendant's motion to dismiss Count 1 of the indictment be denied.

Pursuant to 28 U.S.C. § 636(b)(1)(c), any objections to the recommendation were to be filed not later than July 17, 2006. Defendant by his counsel filed an objection to the Magistrate Judge's legal conclusion but submits no additional legal analysis. After a review of the record the Court agrees with the legal conclusions of the Magistrate Judge.

Accordingly, the Court will adopt the Magistrate Judge's report and recommendation and deny defendant's motion to dismiss Count 1 of the indictment because a trial on the factual issues

concerning the conspiracy charge is required. See United States v. Thomas, 150 F.3d 743, 747 (7th Cir. 1998). Further Count 1 does not violate the prohibition against multiplicity according to United States v. Mitchell, 39 F.3d 465, 472-474 (4th Cir. 1994).

ORDER

IT IS ORDERED that the Magistrate Judge's recommendation is ADOPTED.

IT IS FURTHER ORDERED that the defendant's motion to dismiss Count 1 of the indictment is DENIED.

Entered this 18th day of July, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge