

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

UNITED STATES OF AMERICA,

Plaintiff,

PRETRIAL MOTION
HEARING ORDER

v.

SIDDHARTHA SHAH and
JIGNESH JAGARIA,

07-CR-098-C

Defendants.

On August 10, 2007 this court held the pretrial motion hearing. Defendant Siddhartha Shah was present with his attorney, Patrick Cafferty. Defendant Jignesh Jagaria was present with his attorney, Dean Strang. The government was represented by First Assistant United States Attorney Stephen Sinnott.

First we discussed the government's motion to depose the detained material witnesses (dkt. 11). The court offered the parties a choice: If the defendants insisted on presenting these witnesses live at trial for the jury to view, then the court would move the trial date forward from October 29, 2007 to September 17, 2007 or September 24, 2007. If the parties did not wish to try the case early, then the court would grant the government's motion to depose the detained material witnesses, with these depositions likely occurring before the end of August. The parties have until August 14, 2007 within which to present their written responses to the court. By way of preview, the government stated that it could make itself available for trial on either date but strongly preferred September 17, 2007 because of other commitments by FAUSA Sinnott. Defendant Shah, by counsel, indicated a preliminary willingness to try the case on September

17, 2007 but wants the full measure of time to make a final decision. Defendant Jagaria, by counsel, has unrelated concerns. Jagaria actually is not part of the Rule 15 deposition dispute because these witnesses have nothing to say about him. Therefore, he is indifferent as to whether they testify in person or telephonically. On the other hand, Attorney Strang is firmly scheduled to try a murder case in Dane County Circuit Court for the entire month of September. Depending on how things shakes out, counsel's unavailability might induce the court to sever defendants for trial, probably over the government's objection.¹ The court will decide this issue after the parties have submitted their positions on August 14, 2007.

Next we dealt with the three substantive motions filed by Shah. Shah must file and serve his supporting brief(s) not later than August 17, 2007, with the government response due August 24, 2007, and any reply due August 31, 2007. In the event the court moves the trial forward to September 17, 2007, then Judge Crabb likely will decide these motions directly without the benefit of a report and recommendation from me. Neither Defendant filed any other pretrial motions and neither Defendant required a discovery proffer from the government. The parties had no other matters to bring to the court's attention.

Entered this 13th day of August, 2007.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge

¹ We might never reach this juncture: Attorney Strang predicted a lower than 50% chance that Jagaria will go to trial. We will stay tuned.