

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CALVIN BRUCE,

Defendant.

ORDER

07-CR-057-S

On June 13, 2007, this court held a telephonic hearing on defendant Calvin Bruce's request for evidentiary hearings on his two suppression motions, which the government opposes. *See* Dkts. 26, 27, 29 and 30. Bruce did not participate personally, but was represented by his attorney, Anthony Delyea. The government was represented by Assistant United States Attorney Rita Rumbelow.

After hearing from both sides and engaging in extended discussion, I declined to require the government to present witnesses in opposition to either motion at this time. Bruce, however, may amplify the record and earn a hearing or two. This is the sequence: Not later than June 15, 2007 Bruce may submit his own affidavit(s) establishing a privacy interest in the searched residence, and/or asserting his subjective belief that he was coerced into making a post-arrest statement. In the event Bruce establishes a privacy interest in the residence, we will hold the first phase of an evidentiary hearing on June 21, 2007 at 1:30 p.m. The witness at this hearing would be Endia Matthews, who apparently is a very reluctant witness. I have authorized the issuance of a Rule 17(b) subpoena for June 21,

2007 at 1:30 p.m. for Ms. Matthews. Counsel will be presenting duplicate originals to the clerk of court for signature, which I have authorized. I am authorizing the Marshals Service to attempt service of this subpoena, while allowing Attorney Delyea, on his own or through an investigator, also to attempt service simultaneously. In the event Bruce decides not to claim standing in the apartment, then this preliminary hearing is canceled.

If Ms. Matthews testifies at the June 21 evidentiary hearing that her consent to search was coerced, then this will trigger the second phase of the evidentiary hearing, which will occur as previously scheduled on June 28, 2007 at 10:30 a.m. At this hearing, the government would have to present any witnesses in opposition to the claim of coerced consent.

To the same effect, if Bruce submits an affidavit claiming that he was coerced into answering the officers' questions, this will trigger the government's obligation to present witnesses in opposition at the June 28, 2007 hearing.

The parties had no other matters to bring to the court's attention at this time.

Entered this 13th day of June, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge