

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

DION LAKE,

Defendant.

PRETRIAL MOTION
HEARING ORDER

07-CR-068-C

On September 12, 2007, this court held the pretrial motion hearing. Defendant Dion Lake was present with his attorney, Mark Maciolek. The government was represented by Assistant United States Attorney Robert Anderson.

Prior to the hearing, Lake filed two sets of pretrial motions, one by prior counsel, one by current counsel. Most of the motions related to discovery. After taking a discovery proffer from the government and discussing the motions with both sides, I granted the motions docketed as 18 and 22, and denied the motions docketed as 8, 9, 10, 11, 19 and 20. I stayed action on the motion in limine (dkt. 7) until the final pretrial conference.

I also stayed action on the motion to sever counts (dkt. 12), motion for supplemental discovery (dkt. 21), and motion to suppress pretrial and in-court identifications by specified witnesses (dkt. 23). Here's why: currently Lake is charged with three substantive drug counts. The government has made a plea offer on these charges with a response deadline of September 28, 2007. In the event Lake accepts the offer, there will be no trial. In the event Lake declines the offer, the government will seek a superseding indictment from the grand

jury that adds a conspiracy charge, ups the alleged drug amount to 50+ grams of crack cocaine, and allows the possibility of a §851 enhancement. If this occurs, then Lake and Attorney Maciolek will need additional time for new motions, briefing on the current motions, and prep time for the expanded trial. Therefore, there is no point in ordering briefing on the pending motions until we know whether it will be needed.

In the event Lake accepts the government's offer, then the clerk of court will set up a change of plea hearing and my role in this case will be through. In the event Lake declines the offer, Attorney Maciolek must forthwith notify the court and I will schedule a telephonic status and scheduling conference with the attorneys to determine what needs to happen next. The parties had no other matters to bring to the court's attention.

Entered this 12th day of September, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge