

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

08-cr-160-bbc

MICHAEL J. KOZLOWSKI,

Defendant.

On March 3, 2009, this court held a recorded telephonic conference to discuss with counsel the request by an attorney in the civil lawsuit against Mr. Kozlowski for this court to move the trial date of the instant prosecution. Defendant Michael Kozlowski did not participate personally, but was represented by his attorney, Eric Wilson. The government was represented by Assistant United States Attorney Paul Connell.

Attorney Connell reported that Attorney Rottier had misunderstood the government's position; the government did object to moving the trial date forward, particularly upon learning that the court was considering April 24, 2009 because May 4, 2009 is already full. The government needs this full measure of time to prepare for trial. Finally, the government reported its intent to seek a superseding indictment from the grand jury later this month. If a superseding indictment is returned, then the entire schedule remaining in this case might be up for grabs.

Attorney Wilson reported that although Kozlowski did not object to moving the trial forward, if there is a superseding indictment, all bets are off. Kozlowski would vehemently

object to a criminal trial in this case following any civil trial in state court. That is a matter outside of this court's control. Although this court will accommodate the scheduling needs of the court and the parties in the civil case as best it can, it must give both sides in this criminal prosecution adequate time to prepare for trial.

As a result, the May 11, 2009 trial date remains in place. If the grand jury returns a superseding indictment, the court promptly will schedule a telephonic status and scheduling conference to determine what needs to happen next. The parties had no other substantive matters to bring to the court's attention.

Entered this 3rd day of March, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge