

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

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UNITED STATES OF AMERICA,

Plaintiff,

STATUS CONFERENCE ORDER

v.

EMETERIO VELAZQUEZ,  
JOSE LUIS CASTILLO MADRIGAL,  
ROSALINA VELAZQUEZ, and  
RUPERTO RUIZ,

Defendants.

12-cr-62-bbc

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Following the grand jury's return of a superseding indictment on January 9, 2013, on January 15, 2013 the court held a telephonic status conference at which all parties were represented by counsel. As discussed below, it appears that the February 11, 2013 trial date likely will be moved, and it may be that only one or two defendants actually will go to trial.

The calendaring friction began in early November when defendant Rosalina Velazquez (then charged in Case No. 12-cr-68-bbc) had an emotional breakdown in jail, leading to an emergency mental health commitment followed by this court ordering a competency determination. *See* dkts. 21- 24, Case No. 12-cr-68. Ms. Velazquez still is housed at FMC-Carswell and the court learned on January 15, 2013 her competency examination report will be delayed past the predicted January 17, 2013 filing date. Ms. Velazquez's attorney, Robert Rascia, reported on January 15, 2013 that the informal word he has received from FMC-Carswell is that Ms. Velazquez has not had any additional incidents since arriving. He further reported that last Fall, Ms. Velazquez had expressed interested in resolving her case without a trial, but Attorney Rascia has not had a substantive conversation with Ms. Velazquez since her transfer to FMC-Carswell in November. As a result, at this time he cannot predict whether Ms. Velazquez wishes to plead out or go to trial. In either case, Attorney Rascia would be seeking to postpone the February 11, 2013 trial date. If Ms. Velazquez chooses to go to trial, she cannot possibly be prepared by February 11, 2013; she might not even be

back from FMC-Carswell by then. Even if Ms. Velazquez chooses to plead out, Attorney Rascia would like to postpone the trial of the co-defendants so as to preserve Ms. Velazquez's opportunity to earn a \$ 5.K reduction from the government if she can negotiate a cooperation agreement.

The government responded at the January 15, 2013 hearing that it adamantly opposes trying this sprawling wiretap case twice, regardless of the reason. If the court is going to postpone trial for Ms. Velazquez, then the government will move to continue the trial for any other defendant who does not plead out.

Defendant Ruperto Ruiz, by his attorney Ronald Benavides, reported that he intends to go to trial, but he does not oppose a continuance. Attorney Benavides noted that Ruiz has other legal problems and he isn't going anywhere, so he is indifferent as to when this case gets tried.

Emeterio Velazquez, Ms. Velazquez's husband, is scheduled to plead out on February 1, 2013, but this might be problematic because of his unaddressed concerns about his wife's well-being. Mr. Velazquez's Attorney, Joseph Lopez, reported that Mr. Velazquez keeps asking what is going to happen to his wife and he wants to know whether she also intends to plead guilty; Attorney Lopez is unable to answer these questions until Mrs. Velazquez returns to this district and can speak with her attorney. Because of this, Emeterio Velazquez favors a continuance of the trial date.

This leaves defendant Jose Castillo Madrigal, whose current intentions and wishes are unclear. Castillo is detained at the Columbia County Jail, which means that his attorney, Mark Maciolek, has not had an opportunity to visit him since the return of the superseding indictment on January 9, 2013. Attorney Maciolek reported that the door still is open for a plea agreement, but that no deal has been reached, and it may be that the parties do not reach one, so that Castillo might want his trial. Attorney Maciolek does not know at this time whether Castillo would oppose a continuance

of the trial date, but he has committed to visiting Castillo promptly to discuss this and then reporting Castillo's position to counsel and the court.

If Castillo does not oppose a continuance, then the court immediately will strike the remainder of the current schedule and then reset dates in consultation with the parties once we all have sufficient information to do so. If Castillo opposes a continuance, then the government promptly must file a motion to continue the trial and Castillo must promptly file his objections. We will wait until we know Castillo's position before proceeding further.

Entered this 16<sup>th</sup> day of January 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge