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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

CR 02-464

gagainst-

United States Courthouse
Brooklyn, New York

JASON VALE,

Defendant.

October 7, 2002
11:30 o'clock a.m.

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TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE JOHN GLEESON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: ROSLYNN R. MAUSKOPS
United States Attorney
BY: CHARLES KLEINBERG
Assistant United States Attorney
225 Cadman Plaza East
Brooklyn, New York 11201

For the Defendant: JAN ROSTAL, ESQ.
Federal Defender's Unit
Legal Aid Society

Court Reporter: Henry R. Shapiro
225 Cadman Plaza East
Brooklyn, New York
718-330-7687

Proceedings recorded by mechanical stenography, transcript
produced by CAT.

1 THE CLERK: United States versus Jason Vale.

2 MR. KLEINBERG: Good morning.

3 Charles Kleinberg, Assistance United States for the
4 government.

5 MS. ROSTAL: Jan Rostal, Federal Defenders Office,
6 for Mr. Vale.

7 MR. KLEINBERG: Your Honor, the government is here
8 today to set a trial date. I understand the defense will be
9 asking for a further adjournment and, of course, I will allow
10 them to address it, but let me simply present the government's
11 position.

12 The government is not willing at this point to not
13 set a trial date today or to set one later than late January
14 or early February. I'm sure this Court designated this a
15 complex case on July 22d of this year.

16 However, the case is simply not complex enough to
17 justify any further extended delay. Uncovered tapes that were
18 turned over to the defendant complete with transcripts on July
19 10th, have a collective running time of like two hours, maybe
20 a little over two hours. That is all the tapes combined.

21 On July 10th we made available for inspection by the
22 defendant all the materials that were seized from his:premises
23 back in 2000. Those items were made available for inspection
24 in New Jersey on July 10th. The defendant did not come over
25 to inspect them until one week ago, six days ago, I believe

HENRY R. SHAPIRO OFFICIAL COURT REPORTER

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1 that it was. The underlying issue in this case is certainly
2 not complex. It's simply whether or not the defendant, after
3 havin3 been orcteredby this Court not to sell Laetril, in fact
4 continued to sell laetrile.

5 I have just received information literally this
6 morning that the defendant is continuing to sell Laetrile in
7 contempt of this Court's order even as we speak.

8 THE DEFENDANT: That is not true.

9 MR. KLEINBERG: I further point out, as you are aware
10 of course, the prosecution was delayed from the front ~nd,
11 because of the order to show cause that was issued,' the
12 defendant was an absconder, a fugitive, for two months. .A
13 bench warrant was issued, until he did surrender, and after
14 many agents went out searching for him.

15 I have no objection to a trial date as late as
16 January, early February, but we do object to a trial date any
17 later than that in light of the concerns that I conveyed to
18 your Honor.

19 THE COURT: Do you want to be heard?

20 MS. ROSTAL: Judge, I have 60 other cases. This is a
21 case that as the Court knows, I never had a criminal contempt
22 case. Our office has been -- has been down several lawyers.
23 We've just recently, with two lawyers coming back, sort of are
24 back up to full staff. I have a law student that is here with
25 me, just assigned to me from the NYU law clinic, and she'll be

1 helping me with this case. Mr. Concannon has agreed to become
2 involved and I know placed a call to Mr. Kleinberg last week
3 to discuss it with him.

4 We did go to New Jersey and go through some 30 boxes
5 of discovery of documents, detailed notes full of so-called
6 business records that were seized since the government has
7 been litigating this case since the year 2000. It could be
8 before that.

9 We've asked that the agent, who was quit helpful in
10 bringing the boxes to us, but it's a very high security
11 situation, and I'm told that we were not going to be able to
12 copy them all ourselves, it's going to be up to the one agent,
13 as I understand it, to have to copy all of those documents and
14 that's going to take -- it hasn't been done yet. I understand
15 why. It's a laborious process.

16 I will need to continue that process by going through
17 them. I think there are a number of really interesting legal
18 issues that I don't want to give short visit to, not the least
19 of which, occurring to me as I go along, one of which I'm
20 concerned about the fact that the government is charging Mr.
21 Vale with a felony crime for which there is no statutory
22 maximum, without the presentment to a grand jury by an order
23 to show cause.

24 It spirals from there in terms of the issues that
25 present themselves. I don't think -- we may be ready to try

1 the case by January, that-could be-- but I don't think at this
2 point I can say in fairness to the Court, in fairness to my
3 client, and to my adversary that I'm in a position to tell you
4 honestly whether I'm going to be able to do that. "r

5 Mr. Vale is telling me on the fugitive issue, he's -
6 concerned about that, because I don't think he meant any
7 disrespect to the Court.

8 There were communications with the court during those
9 two months, that apparently the government claims that they
10 were looking for him. He surrendered himself, as I recall,
11 the day that he was brought in for his initial appearance on
12 the Rule 5 appearance. He was litigating legal issue about
13 proper service.

14 In any event, Mr. Vale is here, his family -- his
15 mother is in the courtroom, his family is very involved with
16 this case and they have posted, I think, an \$800,000 bail, if
17 I remember right, and three or four pieces of property that
18 they own. This is a very close family. I don't think there
19 is any concern about a risk of flight here.

20 I would ask is that we schedule the case for another
21 status conference after we received the discovery and the 30
22 boxes of material and I can give the Court some idea of
23 whether there are motions that we need to litigate or whether
24 we'll be prepared to go to trial.

25 MR. KLEINBERG: Just one small point in addition.

1 The numbers of boxes are approximately 20, many of which
2 contain nothing more than a collection of laetrile products
3 that were collected there, boxes consisting entirely of vials,
4 containing laetrile or injectables.

5 There are some documents. They will be ready for the
6 defendant for Xeroxing-- as I say they did not show up until
7 last week-- by the end of this week.

8 I'm indeed concerned, your Honor, about the new
9 information that we have and I do believe that we need to set
10 a trial date now. If we continue to keep this thing in limbo,
11 I'm concerned about whether your Honor's order will indeed be
12 enforced without at least giving us a trial date on the other
13 end.

14 MS. ROSTAL: What does one have to do with the
15 other? Any concerns can be addressed as part of the bail.

16 THE COURT: Whether or not to bring a supplemental
17 order to show cause based on conduct intervening the issuance
18 of the first order and today is up to you.

19 If you do, then the question seems to be the next
20 logical question, not only when the first contempt allegation
21 will be tried and whether it ought to be tried together with
22 the second.

23 That in the first instance is up to the executive
24 branch to bring the charge. I don't intend to do it sua
25 sponte.

1 It strikes me as useful, given the representation
2 that counsel may be ready to go as early as January, for me to
3 put it over briefly so that these documents can be copied and
4 supplied to Ms. Rostal and her colleagues.

5 Let's come back in, approximately, two weeks and
6 we'll set a motion schedule and a trial date.

7 I have some docketing pressure, not to have this
8 trial go into the spring.

9 I may have a trial in the spring that displaces my
10 entire docket, so I'm going to, consistent with your
11 obligation to provide a thorough defense for Mr. Vale, I'm
12 going to schedule this trial sooner, rather than later, and I
13 would like it in January, based on Ms. Rostal's representation
14 that may well be possible, once she has a chance to review
15 these boxes of documents.

16 I'm going to put it over without setting a motion
17 schedule and without setting a trial date today.

18 THE CLERK: October 22nd at 11:30.

19 THE COURT: Is that date and time all right with
20 everybody?

21 MS. ROSTAL: That is fine.

22 MR. KLEINBERG: That is fine with me.

23 THE COURT: You have to be here, Mr. Vale, and we'll
24 set a trial date on that date.

25 Anything else today?

1 MR. KLEINBERG: No, your Honor.

2 MS. ROSTAL: No, thank you.

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