

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Criminal Division -- Misdemeanor Branch

UNITED STATES OF AMERICA

v.

ELENA SASSOWER

:

:

:

Docket #: M-4113-03
Judge Brian F. Holeman
Trial: April 5, 2004

MOTION TO CHANGE TRIAL DATE

Undersigned counsel hereby moves this Court to change the date of the criminal trial herein from Monday, April 5, 2004 to Monday, May 3, 2004.

On Friday afternoon, February 27, 2004, *pro se* defendant Elena Ruth Sassower filed an emergency request for postponement/continuance of her trial date, then scheduled for Monday March 1, 2004, due to the hospitalization of her elderly father. The Court granted such consented-to request late in the day on Friday, February 27th. However, in setting Monday, April 5, 2004 as the new date for a trial, whose length the Government had previously estimated as requiring three days, the Court did not consult with undersigned counsel, Government counsel, or Ms. Sassower.

Immediately upon being notified by Ms. Sassower of the Court's February 27th Order setting this new trial date, undersigned counsel informed her that I would be unavailable due to the Spring Break, which coincides with the Passover holiday beginning on the evening of April 5th. Specifically, I stated that from April 2nd-April 11th, I had long-standing plans to take my wife and children, who are off from school the week of April 5th, to be with my family in Philadelphia and New York, to celebrate Passover with family Seders and celebrate counsel's mother's 70th Birthday party. Ms. Sassower, who herself observes the Passover holiday, agreed that I would promptly notify the Court and Government counsel of my unavailability – without prejudice to her contention that the Court is disqualified for actual bias.

First thing Monday morning, March 1st, I advised the Court of my unavailability for trial on April 5th and was told by its Law Clerk, Sara Pagani, that I should file something in writing. I also advised Assistant U.S. Attorney Jessie K. Liu, who has taken over the case from Assistant U.S. Attorney Aaron Mendelsohn, of my unavailability.

For her part, Ms. Liu informed me that April 5th was also not good for the Government because one of its key witnesses would be unavailable. Because of this, she and I began discussing possible agreeable alternate dates such as April 12th, May 3rd, or May 10th, and the filing of a joint motion to continue with respect thereto.

On Thursday, March 4th, Ms. Liu advised that the Government was agreeable to moving the trial to April 12th. By then, however, undersigned realized that such

proposed date was no longer feasible for me. Aside from the fact that I would just then be returning the evening before from a week out of the office, out of communication with Ms. Sassower, and with an accumulated pile-up of other client matters to address, I am scheduled to begin a week-long criminal trial involving seven co-defendants on the following Monday, April 19th – for which substantial preparation time will be needed during that very week. Although the Government's estimate is that the trial herein will take three days, my view is that the full week might be consumed by this trial, leaving me no time to properly prepare the defendants and witnesses for the following week's criminal trial, and thus possibly causing a continuance of that matter.

For the foregoing reasons, I asked Ms. Liu's consent to the May 3rd date. However, she stated to me that she could not do so because that would put the trial close to one year following the May 22nd arrest. She did not, however, identify any other prejudice to the Government by the granting of a continuance to May 3rd -- a mere few weeks beyond the April 12th date to which she did earlier agree.

Unlike the U.S. Attorney's Office, with its ample attorney and support staff – and which will be trying this case with two Assistant U.S. Attorneys – I am a solo practitioner, operating without associate counsel or support staff.

There is a further good and sufficient reason for putting the trial over to May 3rd, namely, to allow adequate time for motion practice with respect to the nine subpoenas served on defendant's behalf upon Senators Hatch, Leahy, Chambliss, Clinton, and Schumer – and, upon various members of Senator Clinton and Schumer's staff. The Office of Senate Legal Counsel, which on March 4th, advised that it was authorized to accept service of such subpoenas – and which did accept service on March 5th – has stated that it will be filing a Motion to Quash the subpoenas on constitutional separation of powers grounds. It is unknown when such motion will be made – but plainly there must be adequate time for the *pro se* defendant to research the complicated constitutional law with respect to privilege immunity and the Speech and Debate Clause and, based thereon, to interpose opposing papers addressed to the specific facts of this case. Presumably, the Government will need time to respond thereto. As for the Court, which presumably has never addressed such a motion, it will likewise require time for its own studied analysis of the law – and for a decision tailored to the unique, perhaps unprecedented, facts of this case.

Needless to say, once the Court adjudicates defendants' entitlement to her subpoenaed witnesses, their availability will have to be confirmed. The Senate is in recess from April 12th through April 16th – and, upon information and belief, the subpoenaed Senators will not be in Washington. Such is yet another good and sufficient reason for rescheduling this criminal trial to May 3rd when the Senate is in session, and the witnesses will be available.

CONCLUSION

WHEREFORE attorney advisor counsel to the *pro se* defendant respectfully requests that the date of the criminal trial herein be changed from Monday, April 5, 2004, to Monday, May 3, 2004.

Respectfully submitted,

Mark L. Goldstone

Mark L. Goldstone, Esq.
Attorney Advisor to
Pro Se Defendant Elena Ruth Sassower
Bar #394135
9419 Spruce Tree Circle
Bethesda, Maryland 20814
(301) 530-6612

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2004, I mailed postage prepaid, a copy of this motion to Jessie Liu, Assistant U.S. Attorney, 555 4th Street, N.W. Washington, D.C. 20001, and to *pro se* defendant Elena Ruth Sassower at 16 Lake Street, Apt. 2C., White Plains, New York 10603.

Mark L. Goldstone

Mark L. Goldstone

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Criminal Division -- Misdemeanor Branch

UNITED STATES OF AMERICA

v.

ELENA SASSOWER

Docket #: M-4113-03
Judge Brian F. Holeman
Trial: April 5, 2004

ORDER

This matter comes before the Court as a Motion by the *Pro Se* Defendant's Attorney Advisor to Change Trial Date to May 3, 2004.

Upon consideration of the Motion and good cause having been shown it is this _____ day of March, 2004 hereby

ORDERED, that the Motion is **GRANTED**; and it is further

ORDERED, that trial of this matter is continued until **May 3, 2004 at 9:00 a.m. in Courtroom 218.**

BRIAN F. HOLEMAN
JUDGE

Copies forwarded by facsimile and mailed to:

Elena Ruth Sassower
16 Lake Street, Apt. 2C
White Plains, New York, 10603
Facsimile: (914) 428-4994

Assistant U.S. Attorney Jessie Liu
555 4th Street, N.W.
Washington, D.C. 20001
Facsimile: (202) 514-8788

Mark Goldstone, Esq.
9419 Spruce Tree Circle
Bethesda, Maryland 20814
Facsimile: (301) 530-6612