

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CRIMINAL PRETRIAL MINUTES

Date: January 24, 2006

Case No.: CR 03-0095-WBS

Judge: William B. Shubb

Title: UNITED STATES -v- AMR MOHSEN (present, in custody)
ALY MOHSEN (present, not in custody)

Attorneys: Bruce Locke - for Amr Mohsen Kyle Waldinger - for USA
 John Balasz - for Amr Mohsen Robin Harris - for USA

Christian Picone - for co-defendant
Aly Mohsen

Deputy Clerk: Edward Butler

Court Reporter: Belle Ball

Court in Session: 10:40 a.m.- 10:50; 11:12 a.m.- 1:00 p.m; 2:15 p.m.- 4:00 p.m.

PROCEEDINGS

The court informs the defendants that a Superseding Indictment was filed earlier today against both defendants. Defendants request a brief recess to discuss a development, and to review the Superseding Indictment. Court takes a recess.

Defendants confirm they have reviewed the Superseding Indictments, that the new indictments do not contain any new charges and that the Government has previously informed defendants of the contents of the new indictments. The defendants waive a full reading of the indictments.

Counsel for Aly Mohsen informs the court that the defendant now intends to change his plea to guilty on all counts.

The court arraigns the defendants. Def. Amr Mohsen is charged with counts 1, 2, 3, 4, 10, 11-18, 19, 20, 21, 22 and 23. Def. Aly Mohsen is charged with counts 1, 5, 6, 7, 8, 9, and 19. The potential penalties are read to the defendant. Def. Amr Mohsen pleads NOT GUILTY to all counts, and demands a jury trial, currently scheduled for Jan. 31, 2006.

Def. Aly Mohsen's case will be heard later on this date.

Motions:

Government's First Motion in Limine [Docket # 457, filed January 17, 2006]:

(1) Re: Defendants' out of court statements;

COURT'S RULING: ruling reserved until time of trial.

(2) Re: introducing evidence of any automobile break-ins or thefts;

RULING: ruling reserved until time of trial.

(3) re: any reference to alleged racial, ethnic, or religious bias on the part of the government;

RULING: if any such evidence exists, parties are to present it to the court, not jury.

(4) re: any reference to unrelated FBI and/or Secret Service cases or incidents;

RULING: both sides barred from presenting references to other cases.

(5) re: any reference to possible punishment;

RULING: both sides barred from references to penalties faced by defendant.

(6) re: presenting an insanity or mental health defense for which there has been improper or non-compliance with Rule 12.2;

RULING: ruling reserved until time of trial.

(7) re: expert testimony as to the ultimate issue of “materiality”;

RULING: court will handle the issue through jury instructions.

(8) re: speculation on the probable outcome of the civil patent infringement case.

RULING: ruling reserved until time of trial.

Def.’s Motion in Limine [#463, filed 1/17/06]:

(1) Re: to exclude testimony by Hon. William Alsup;

RULING: Rather than the testimony of Judge Alsup, the Government may present the orders from the court in this case may be provable through use of a transcript, to the extent the order is admissible.

(Court in recess from 1:00 p.m. to 2:15 p.m.)

Continue Def.’s Motion in Limine [#463, filed 1/17/06]:

(Part 2) Re: precluding the Government from making “consciousness of guilt” references in its opening statement;

RULING: GRANTED in part and DENIED in part. It is DENIED with respect to the alleged “fake break-in.” It is GRANTED in all other respects.

Additional Proceedings:

Defendant Aly Mohsen enters a plea of GUILTY, after being sworn, to Counts 1, 5, 6, 7, 8, 9 and 19 of the Superseding Indictment, filed Jan. 24, 2006.

The court states the elements of each charge brought against the defendant.

The Government offers the factual statement relating how each of the elements of each charge would be proven against the defendant if the matter were to be tried.

The defendant confirms the veracity of the Government’s factual statement.

The court finds the defendant knowingly and voluntarily enters a guilty plea to all the counts charged. The plea is accepted.

ORDERED: Defendant Aly Mohsen is adjudged GUILTY of Counts, 1, 5, 6, 7, 8, 9 and 19. The matter is referred to the U.S. Probation Office for investigation and completion of a Presentence Report. Defendant and counsel are directed to report to the office at the conclusion of the hearing.

Defendant Aly Mohsen requests sentencing be delayed until after completion of co-defendant’s trial, and that the Probation Office for the Western District of Missouri be responsible for completion of the Presentence Report.

ORDERED: Defendant's first request is granted. Sentencing of this matter will be stayed until after conclusion of the co-defendant's trial. A STATUS CONFERENCE is set for Friday, July 14, 2006 at 11:00 a.m. Defendant's request for another District's probation office to complete the presentence report is DENIED. This district's office will prepare the report.

ORDERED: Defendant Aly Mohsen may continue to be on bond, under the same terms and conditions originally imposed.

Defendant Aly Mohsen and counsel are excused.

Defendant Amr Mohsen requests a modification of the detention order to allow greater ease and number of family visits during trial; and that the defense investigator be allowed to meet with the defendant.

ORDERED: Defendant's request for a modification of the detention order to allow greater ease and number of family visits during trial is DENIED. If counsel wishes more visits, they are to follow the same procedure previously used and submit stipulations and proposed orders to the court.

ORDERED: Defendant's request that the defense investigator be allowed to meet with the defendant is GRANTED. Counsel is to follow the same procedure previously used and submit stipulations and proposed orders to the court.

Re: the Government's Statement to be addressed to the jury regarding bifurcation of the trial. The defense objects to the statement.

ORDERED: The court finds the Government's Statement to be addressed to the jury regarding bifurcation of the trial to be insufficient. Both parties are to submit new statements, to be filed by Thursday, Jan. 26 at noon.

ORDERED: The court will hold a status conference at 1:00 p.m., Friday, January 27, 2006.

The court further discusses the trial schedule. Jury pre-screening notices were sent out by the jury administrator. The complete length of trial was enlarged to 10 weeks, up to 4/12/06. The daily schedule will be 8:30 a.m. to 4:30 p.m.

The Government will set-up the evidence presentation equipment in time for the 1/27/06 status conference.

The court addresses an issue that has arisen regarding the Government's subpoena of a Pretrial Services Officer in this case. The defense is not aware of the issue. The court directs the defense to be provided copies of correspondence, and respond at the time of the status conference.

Cc: U.S. Probation Office