

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	No. 09 CR 002-2
v.	)	Judge Glen H. Davidson
	)	Magistrate Judge S. Allan Alexander
BOBBY B. DELAUGHTER	)	
	)	
Defendant.	)	

**DEFENDANT DELAUGHTER’S MOTION FOR AN EXTENSION OF  
TIME WITHIN WHICH TO FILE ADDITIONAL PRETRIAL MOTIONS**

Defendant, **BOBBY B. DELAUGHTER**, by and through his attorneys, **THOMAS ANTHONY DURKIN, JOHN D. CLINE, and LAWRENCE L. LITTLE**, pursuant to the Due Process and Effective Assistance of Counsel provisions of the Fifth and Sixth Amendments to the Constitution of the United States, respectfully moves this Court for a twenty-eight (28) day extension of time within which to file additional Pretrial Motions that may become necessary based upon further defense investigation and receipt of discovery documents.

In support of this motion, Defendant, through counsel, shows to the Court the following:

1. Counsel have timely filed simultaneously herewith five pretrial motions, captioned as follows:
  - (i) Defendant DeLaughter’s Motion To Dismiss Count One For Failure To Charge An Offense;
  - (ii) Defendant DeLaughter’s Motion To Dismiss Counts Two, Three, And Four For Failure To Charge An Offense;
  - (iii) Defendant DeLaughter’s Motion For A Bill Of Particulars;
  - (iv) Defendant DeLaughter’s Motion For Inspection Of The Grand Jury Minutes; and,

- (v) Defendant DeLaughter's Motion For Pretrial Hearing Concerning Co-Conspirators' Statements.

Also, a motion has been filed to permit co-counsel John D. Cline of Jones Day, San Francisco, to file his appearance *pro hac vice*.

2. As mentioned in the recent conference call with the Court and parties on March 23, 2009, regarding trial scheduling, counsel are waiting receipt in discovery of the entire court file in the case of *Wilson v. Scruggs*, number 251-94-582, in the Circuit Court of the First Judicial District of Hinds County, Mississippi. The government has been good enough to begin copying this entire file and has informed counsel it is extremely voluminous. As this case and Judge DeLaughter's handling of it constitute the basis of the offenses charged, it will be necessary for counsel to review these voluminous materials and determine whether upon review additional pre-trial motions will be necessitated. In addition, and as counsel also mentioned in the March 23<sup>rd</sup> conference, counsel are investigating the issue of the effect of the widespread media publicity concerning this case and the earlier case involving Co-Defendant Dickie Scruggs and his lawyers may have had on the prospective pool of jury venire persons. This investigation might well necessitate a motion for a District wide jury venire, or in the alternative, a motion for change of venue or other related relief based upon potential pre-trial prejudicial publicity.

3. Further, counsel have made an extensive formal discovery request upon the government by letter dated March 24, 2009, and AUSA Norman has indicated he will advise counsel of the government's position as soon as practicable. These requests include, among other things, requests for documents material to the preparation of the defense under Rule 16, and favorable evidence pursuant to *Brady v. Maryland* and its progeny. These requests will most likely require a conference with the government and counsel has already had discussions with Mr. Norman about arranging a meeting in Oxford the week of March 30, 2009.

4. Also, in light of the fact that AUSA Norman has informed counsel that the government will not make the witness statements, pursuant to the Jencks Act, 18 U.S.C § 3500, and Fed. R. Crim. P. 26.2, available until the day of or after the witness testifies, counsels' pre-trial investigation will necessitate attempting to interview Ed Peters, Dickie Scruggs, Timothy Balducci, Zachary Scruggs, Joey Langston and others. Should these individuals, in turn, refuse defense interviews and indicate that they will similarly assert their respective Fifth Amendment privileges if called to testify at trial on Judge DeLaughter's behalf, counsel will have to consider seeking additional pre-trial relief from the Court with respect to Rule 16, §3500, or a request for an order granting compulsion or immunity order from the government for defense witnesses.

5. Finally, counsel have filed a Bill of Particulars requesting several particulars necessary for the preparation of the defense and to preclude potential Double Jeopardy issues. The government's providing these particulars may well result in the filing of additional pre-trial motions. For example, in ¶ I (3) counsel have requested the particular "state and local government" entity of which Judge DeLaughter is alleged to be an agent. This particular could necessitate the filing of an additional motion to dismiss Count One. Likewise, certain particulars have been requested regarding Count Five which may influence whether counsel wish to bring certain pretrial challenges to that count.

6. Accordingly, undersigned counsel would request an additional twenty-eight (28) days to file any additional pretrial motions which may be necessary as a result of the receipt of further discovery.

7. This motion is made in good faith and not for purposes of delay, and will not interfere with the currently scheduled trial date of August 17, 2009.

Respectfully submitted,

/s/ Thomas Anthony Durkin  
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/s/ John D. Cline  
**JOHN D. CLINE,**

/s/ Lawrence L. Little  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Defendant DeLaughter's Motion For An Extension Of Time Within Which To File Additional Pretrial Motions was served on March 26, 2009, in accordance with Fed.R.Crim.P.49, Fed.R.Civ.P.5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

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