

FILED 11 MAY 23 16:24 USDC ORE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

UNITED STATES OF AMERICA,	)	Cr. No. 10-60066-HO
	)	
Plaintiff,	)	ORDER
	)	
v.	)	
	)	
STEVEN DWIGHT HAMMOND, DWIGHT	)	
LINCOLN HAMMOND, JR.,	)	
	)	
Defendants.	)	
_____	)	

Defendants move to conduct the trial in the Pendleton division.

The Sixth Amendment to the United States Constitution requires that a trial be held in the state and district where the crime was committed. However, a defendant does not have a right to be tried in a particular division.

United States v. Davis, 785 F.2d 610, 616 (8th Cir.1986). Nor does the Sixth Amendment require jurors to be summoned from a geographic

boundary of a specific judicial division. United States v. Wipf, 397 F.3d 677, 686 (8th Cir. 2005).

[T]he government must prosecute an offense in a district where the offense was committed. The court must set the place of trial within the district with due regard for the convenience of the defendant, any victim, and the witnesses, and the prompt administration of justice.

Fed. R. Crim. P. 18.

In deciding the place of trial within the district, courts must balance the factors of convenience of the defendant and witnesses with the prompt administration of justice. United States v. Alvarado, 647 F.2d 537 (5th Cir. 1981). Courts have broad discretion in this regard. Id.

In this case, the government correctly points out that for purposes of convenience, trial in Pendleton is no more convenient for the witnesses, parties, and counsel, than a trial in Eugene. In addition, the Eugene courthouse is better equipped to handle a lengthy and complex trial. However, the court is mindful of the potential differences in the makeup of the jury pool from the Eugene division and the Pendleton division.

The potential difference in jury pools may not be significant enough to merit trying the case in Pendleton in light of the convenience and better equipped courthouse in Eugene. Other venues should also be considered. The court has investigated the potential to hold this trial in Burns, Oregon, and has obtained the following information:

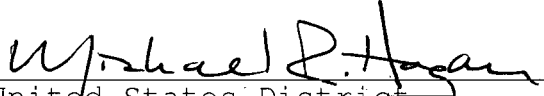
The Court Administrator in Burns has obtained permission from the presiding judge for use of their courthouse for a 10-13 day jury trial in the fall. There is a judicial conference the week of October 17, 2011, which would make a trial that week and the week before or week after ideal. There is only one courtroom and the jury box will seat only 14 which could create issues given the anticipated length of the trial. The courtroom has a wireless internet connection, but for evidence presentations, there is only one flat screen television that is not mobile. Thus, the use of paper documents may be necessary and could potentially slow the pace of trial. The fall is busy for hunting in the Burns area, but there are approximately nine hotels/motels available.

The practice of this court has been to hold off on a final decision on issues such as place of trial until a time closer to the trial when issues and witnesses have been more accurately defined. Accordingly, defendant's motion to hold trial in Pendleton is denied without prejudice.

CONCLUSION

For the reasons stated above, defendants' motion for trial in the Pendleton division (#12) is denied without prejudice.

DATED this 23<sup>rd</sup> day of May, 2011.

  
United States District