

CASE NO. 20 -

IN THE
SUPREME COURT OF THE UNITED STATES

LEDINSON CHAVEZ

Petitioner


v.

UNITED STATES OF AMERICA

Respondent

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner, Ledinson Chavez, by counsel, pursuant to Supreme Court Rule 39, seeks leave to file the attached Petition for Writ of Certiorari *in forma pauperis*. Counsel was appointed by the United States District Court for the Western District of Kentucky pursuant to 18 U.S. Code § 3006A. A copy of the order of appointment is appended to this motion.



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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

CRIMINAL ACTION NUMBER: 3:15CR-54-JHM

UNITED STATES OF AMERICA

PLAINTIFF

vs.

LEDINSON CHAVEZ

DEFENDANT

ORDER

The above-styled case was called in open Court on October 27, 2015, for the purposes of arraignment and a detention hearing. There appeared the Defendant, Ledinson Chavez, in custody. Assistant United States Attorney Lettricea Jefferson-Webb was present for the United States of America. The proceedings were digitally recorded and interpreted by Vivien Keane, Spanish Interpreter.

The Office of the Federal Defender having advised the Court of a conflict prior to the hearing;

IT IS ORDERED that R. Kenyon Meyer from the Criminal Justice Act attorney panel is appointed as counsel for the Defendant.

As to the matter of arraignment, Defendant, by counsel, acknowledged his identity, acknowledged having been furnished a copy of the Indictment and advised of the nature of the charge contained therein.

Counsel on behalf of Defendant, waived formal reading of the

Indictment and entered a plea of **NOT GUILTY** to the charge contained therein.

IT IS HEREBY ORDERED as follows:

1. This matter is assigned for **trial by jury at Louisville, Kentucky, on February 1, 2016, at 9:00 a.m. E.T.**, before the Honorable Joseph H. McKinley Jr., United States District Judge. Counsel shall be in Court thirty minutes before trial. The expected length of trial is eight (8) days.

2. **Pretrial discovery and inspection.**

A. **No later than November 2, 2015**, the United States Attorney and defense counsel shall confer and, upon request, permit inspection and copying or photographing of all matter subject to disclosure under F.R.Cr.P. 16.

B. If additional discovery or inspection is sought, Defendant's attorney shall confer with the appropriate Assistant United States Attorney with a view to satisfying these requests in a cooperative atmosphere without recourse to the Court. The request may be oral or written and the United States Attorney shall respond in like manner.

- (1) Jencks Act material. Jencks Act material pursuant to 18 U.S.C. § 3500 is not required to be furnished to the Defendant by the United States prior to trial.
- (2) Brady (Giglio) material. The government shall disclose any Brady material of which it has knowledge in the following manner:
 - (a) pretrial disclosure of any Brady material discoverable under Rule 16(a)(1);
 - (b) disclosure of all other Brady material in time for effective use at trial.

If the government has knowledge of Brady rule evidence and is unsure as to the nature of the evidence and the proper time for disclosure, then it may request an in camera hearing for the purpose of resolving this issue; failure to disclose Brady material at a time when it can be effectively used at trial may result in a recess or a continuance so that the Defendant may properly utilize such evidence.

- (3) Rule 404(b) evidence. Upon service of a request from the Defendant for notice of Rule 404(b) evidence of other crimes, wrongs, or acts, the United States shall provide notice **within fourteen (14) days of trial** of the general nature of any such evidence it intends to introduce at trial unless the Court excuses pretrial notice upon motion by the United States showing good cause.

Any motion for additional discovery or inspection shall be made on or before November 6, 2015, after compliance by the parties with F.R.Cr.P.

16. Any such motion shall contain a certification from counsel that informal, extrajudicial efforts to resolve the discovery dispute have taken place and been unsuccessful.

C. If required to be disclosed pursuant to F.R.Cr.P. 16(a)(1)(G) or F.R.Cr.P. 16(b)(1)(C), **any expert testimony** the United States or Defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief, including a summary of the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications, shall be disclosed **on or before November 9, 2015.**

Any expert testimony either the United States or Defendant intends to

use to rebut an expert under Rules 702, 703, or 705 of the Federal Rules of Evidence, shall be disclosed **on or before November 23, 2015.**

D. The parties are reminded of the continuing duty under F.R.Cr.P. 16(c) to disclose additional discoverable evidence or material previously requested or ordered.

3. **All motions to suppress evidence** and any other motion requiring a pretrial hearing, including any motions to exclude the testimony of an expert witness pursuant to Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 (1993), shall be filed **no later than November 30, 2015.**

4. **No later than January 11, 2016**, the parties shall file a trial memorandum containing the following:

- A. The statute(s) involved and elements of the offense. (With discussion of authorities, if disputed.)
- B. A statement of undisputed and disputed facts.
- C. A separate statement of each unresolved substantive issue of law, with discussion and citations to authorities.
- D. A statement of evidentiary issues which it is reasonably believed will be raised at trial together with citations to the appropriate Federal Rules of Evidence and authorities in support of the position taken.
- E. A statement of any known or reasonably anticipated potential trial problems, or other issues which may assist the Court in trying the case.
- F. Proposed substantive and special jury instructions with citations to authorities. It is not necessary to submit standard

general instructions. Additional requests at trial are to be kept to a minimum.

- G. Proposed voir dire questions.
- H. Counsel shall file an exhibit list and premark for identification purposes all exhibits intended to be used at trial. Counsel shall file a stipulation as to the authenticity of the exhibits. Any objections to the authenticity of the exhibits shall be heard prior to trial at a time and place to be set by the Court.
- I. The United States shall submit, for the Court's in camera review, a proposed witness list with a brief summary of the expected testimony of each witness and an estimate as to the amount of time that will be required to present the testimony in chief of each such witness.
- J. At the commencement of trial, the United States shall furnish the official court reporter a list of premarked exhibits intended to be used at trial.
- K. The United States shall retain possession of physical exhibits (i.e., weapons, ammunition, drugs, etc.) during and after the trial, pending further orders of the Court.

5. **Any motions in limine shall be filed on or before January 20, 2016. Responses shall be filed on or before January 27, 2016. There shall be no replies.**

6. All motions, responses and replies made pursuant to this Order shall be accompanied by a memorandum and shall conform with and are subject to the requirements and time limitations contained in LCrR12.1, except as otherwise provided herein.

The Court having heard arguments from counsel as to the matter of

detention and for the reasons fully stated on the record;

IT IS ORDERED that the Defendant is released on an unsecured bond in the amount of \$50,000.00 with conditions pending further order of the Court. The Defendant's release is contingent upon the United States Probation Office's evaluation of the Defendant's proposed residence and the installation of the location monitoring device.

Counsel hereby waives speedy trial issues from this date until the date of trial. The Court finds that the ends of justice served by taking such action outweigh the best interest of the public and the Defendant in a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A).

Date: October 27, 2015 ENTERED BY ORDER OF THE COURT:
DAVE WHALIN
UNITED STATES MAGISTRATE JUDGE
VANESSA L. ARMSTRONG, CLERK
BY: /s/ Ashley Henry
Deputy Clerk

Copies to: Counsel of Record
U.S. Probation
Erica Skinner, Case Manager
Jury Administrator

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