

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:10cr186 – MHT
)	
MILTON E. MCGREGOR,)	
RONALD E. GILLEY,)	
THOMAS E. COKER,)	
ROBERT B. GEDDIE, JR.,)	
LARRY P. MEANS,)	
JAMES E. PREUITT,)	
QUINTON T. ROSS, JR.,)	
HARRI ANNE H. SMITH,)	
JARRELL W. WALKER, JR.,)	
and JOSEPH R. CROSBY.)	

PROPOSED TIMELINES

The United States of America, through undersigned counsel, submits this response to the Court’s February 24, 2011 Order. The United States proposes the following timelines regarding recording and transcript deadlines:

- (1) Transcripts. The parties shall produce all transcripts of audio recordings it intends to introduce in its case-in-chief by April 22. Thereafter, the parties shall make informal attempts to resolve any objections based on accuracy. By May 13, the parties shall mark and jointly file stipulated transcripts for which an agreement can be reached and mark and separately file “counter-transcripts” for which an agreement cannot be reached.
- (2) Recordings. The government and the defense shall mark and file all audio recordings to be used at trial by April 29. The defense shall make and file any “audibility” objections by May 9, and the government shall file responses to those objections by May 13.

This proposed timetable allows for an exchange of transcripts more than two weeks prior to the May 9 deadline for exchange of other trial exhibits and more than six weeks prior to the June 6 trial.¹ It gives the parties three weeks, a more than adequate amount of time, to informally resolve any disagreements that may exist and to create counter-transcripts where necessary. Moreover, the filing of stipulated transcripts and counter-transcripts on May 13 will not increase the Court's workload in the weeks immediately preceding the trial because the Court does not need to make independent accuracy determinations on transcript language provided the jurors will hear the recordings at trial. See United States v. Onori, 535 F.2d 938, 947 (5th Cir. 1976) (holding it is not necessary for the trial court to decide whether transcript is accurate before transcript is presented to the jury); United States v. Wilson, 578 F.2d 67, 69 (5th Cir. 1978) ("Since the jury must always reconcile the discrepancies in the transcript(s) against the recording itself, the district court need not listen to the tape or decide whether a transcript is accurate before the transcript is given to the jury and the recording is played.").

Given the quality of the recordings in this case, the government does not anticipate objections based on audibility issues. See Wilson, 578 F.2d at 69-70 (holding that recordings that are only partially unintelligible are admissible unless the unintelligible portions are so substantial as to render the recording as a whole untrustworthy). However, in the event audibility objections are raised by the defense, ten days for review of the identified recordings and filing of objections is more than adequate – particularly because the defense will be on notice, through the government's identification of transcripts by April 15, of the majority of

¹ The government has made a good faith effort to give the defense advance notice of the bulk of the recordings and the transcripts it intends to use, far in advance of trial. In early January 2011, the government disclosed approximately 70 draft transcripts. On February 25, 2011, the government disclosed approximately 180 draft transcripts (some of which were improved drafts of the transcripts previously produced). Accordingly, the defense can begin preparing its versions of transcripts for those recordings immediately.

audio recordings the government will seek to use at trial more than three weeks prior to the May 9 deadline for audibility objections. The proposed timeline gives the Court three weeks to decide any audibility issues prior to trial.

Respectfully Submitted,

LANNY A. BREUER
Assistant Attorney General
Attorney for the United States
Acting Under Authority of 28 U.S.C. § 515

JACK SMITH
Chief
Public Integrity Section

By: /s/ Emily Rae Woods
Emily Rae Woods
Trial Attorney
Public Integrity Section
Criminal Division
United States Department of Justice
1400 New York Avenue, N.W.
Washington, DC 20005
(202) 616-2691
rae.woods@usdoj.gov

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