

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)	
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.)	
JOSEPH R. CROSBY)	

UNITED STATES' MOTION REGARDING CLOSING ARGUMENT

The United States of America, by and through its undersigned counsel, hereby respectfully requests that the Court allow the government to split its main summation among two government attorneys.

For more than a century this circuit has noted that the specific procedural elements of closing argument are left to the discretion of the trial judge. *See, e.g., May v. Int'l Loan & Trust Co.*, 92 F. 445, 447 (5th Cir. 1899) ("in the federal courts the question as to which party shall make the closing argument to the jury is not the proper subject of a [. . .] writ of error, because it does not affect the merits of the controversy. It is a matter which should be largely left to the discretion of the trial judge.") (citations omitted).

Federal courts have been uniform in their understanding that "[t]he district court has broad discretion over the scope of closing argument," and that "absent a showing of an abuse of discretion the district court will not be reversed." *United States v. Gaines*, 690 F.2d 849, 858 (11th Cir. 1982) (citations omitted). *See also Franklin v. Shelton*, 250 F.2d 92, 99 (10th Cir. 1958)

([m]atters relating to final argument are largely within the discretion of the trial court’); *United States v. Gray*, 105 F.3d 956, 963 (5th Cir. 1997) (‘the amount of time allowed for opening statements and closing arguments is a question so clearly committed to the discretion of the trial judge that we would intervene only where there is an egregious abuse of that discretion’) (internal quotation marks omitted); *United States v. Guess*, 745 F.2d 1286, 1288 (9th Cir. 1984) (‘It is well-established that the trial judge has broad discretion in controlling closing argument. The ruling of the trial judge will not be disturbed on appeal, absent an abuse of discretion.’ (citing *Herring v. New York*, 422 U.S. 853, 862 (1975))).

At the close of this trial, the Court will ask the jury to determine the guilt or innocence of nine separate defendants. In doing so, the jury will have to sift through a massive amount of evidence stemming from an approximately two-month long trial. The closing arguments will play a critical role in the jury’s ability to properly exercise its fact-finding function. In light of this, the government requests that the Court exercise its discretionary powers to permit the government to divide its main summation time between two attorneys. The government submits that, by doing so, the Court will ensure that the structure of closing arguments assists the jury’s fact-finding function and best holds the jury’s attention.

The government submits that in a trial in which several defendants, represented by dozens of attorneys, are facing a number of complex charges in a trial lasting several weeks, the Court should grant such a request. In other civil and criminal federal cases that were shorter, less complex, and had fewer defendants, trial judges have allowed counsel for the government or plaintiff to divide the closing argument. *See, e.g., United States v. Siegelman*, 561 F.3d 1215 (11th Cir. 2009) (government allowed to split main summation after multi-week trial against two defendants facing approximately thirty count indictment); *Capitol Justice LLC v. Wachovia*, 706

F. Supp. 2d 23 (D.D.C. 2009) (two attorneys allowed to split closing argument for plaintiff in a two-week jury trial arising from a single breach of contract dispute with single defendant). Given the unique nature of this case, this court should similarly employ its discretion.

For the foregoing reasons, the United States respectfully requests that the Court exercise its sound discretion and allow the government to divide its closing argument between two government attorneys.

Respectfully submitted,

JACK SMITH
Chief

By: /s/ Justin V. Shur
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CERTIFICATE OF SERVICE

I HERBY CERTIFY that on this date, I caused the foregoing motion to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record for the defendants.

DATED: July 26, 2011

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