

09:45:41 1 THE COURT: Let the record show we're here
09:45:48 2 regarding Case Number 15-40030-01. It's a case entitled
09:45:56 3 United States of America versus John T Booker. The
09:46:02 4 parties please enter their appearance.

09:46:05 5 MR. MATTIVI: Good morning, Your Honor, Tony
09:46:08 6 Mattivi and David Smith for the government.

09:46:09 7 MS. EVANS: Your Honor, Melody Evans appears
09:46:13 8 for Mr. Booker. He is in fact in the courthouse, and
09:46:17 9 although he had filed a waiver of appearance, since he's
09:46:19 10 here, he's asked to attend the hearing, and I believe
09:46:22 11 they are bringing him into the courtroom.

09:46:24 12 THE COURT: All right. We'll wait 'til he
09:46:26 13 arrives in the courtroom.

09:47:15 14 (Defendant entered courtroom.)

09:47:21 15 MS. EVANS: Mr. Booker is now present in the
09:47:22 16 courtroom.

09:47:22 17 THE COURT: Thank you. Mr. Booker --
09:47:29 18 Mr. Booker, we just called your case, and the government
09:47:32 19 entered their appearance as well as Miss Evans on your
09:47:37 20 behalf. The reason why we're here today is to have the
09:47:43 21 status conference, a status hearing to find out what is
09:47:48 22 going on with your case, and if the court needs to
09:47:51 23 schedule anything, then we'll do that at this time.
09:47:58 24 What is the status of our case, Miss Evans?

09:48:01 25 MS. EVANS: Your Honor, today we received

09:48:05 1 some more discovery from the government. We believe
09:48:08 2 that this is close to complete discovery exchange. We
09:48:13 3 need a bit more time to finish with viewing all of the
09:48:16 4 discovery and discussing it with Mr. Booker. We would
09:48:20 5 suggest the court set another hearing out -- or another
09:48:23 6 deadline out 30 days, and then that would be a deadline
09:48:26 7 for the defense to file motions or to notify the court
09:48:29 8 if there's a different resolution of the case at that
09:48:32 9 time.

09:48:34 10 THE COURT: Comment from the government
09:48:36 11 regarding that?

09:48:38 12 MR. MATTIVI: Judge, we don't have any
09:48:41 13 objection to that. We had -- this was I think our
09:48:44 14 fourth disclosure of discovery. The defense had
09:48:49 15 probably 75 percent. With what we released today, if
09:48:52 16 they're not 100 percent, they're at 95 plus with regard
09:48:55 17 to discovery. As you may recall, it's taken a little
09:48:58 18 while because we had a de-classification process to go
09:49:01 19 through. We don't have any objection to Miss Evans'
09:49:04 20 proposal. We think the date 30 days from now would be
09:49:07 21 adequate for a motion deadline, and if by then,
09:49:10 22 Mr. Booker has decided to enter a plea, we have no
09:49:14 23 problem with him letting the court know and the
09:49:16 24 government know at that time.

09:49:19 25 MR. SMITH: Judge, I'd note that the speedy

09:49:21 1 trial -- I think according to the clerk's office has a
09:49:24 2 speedy trial at July 22nd of 2015, so we probably need
09:49:30 3 to deal with that particular issue as well.

09:49:33 4 THE COURT: The government's -- excuse me,
09:49:35 5 the government's informed the court that the speedy
09:49:37 6 trial time that's attached to this case actually would
09:49:41 7 expire on or about July 22nd. With that in mind,
09:49:49 8 Mr. Booker, what the court would usually do is make sure
09:49:53 9 that your trial was set before that date. If your
09:50:01 10 attorney has spoken with you and has informed you that
09:50:06 11 there is more discovery that needs to be reviewed in
09:50:10 12 order for her to adequately inform you of what that
09:50:15 13 discovery is, and then go over any options you may wish
09:50:21 14 to consider, then it may well be that you need to have a
09:50:28 15 motion before the court to continue that speedy trial
09:50:32 16 time deadline to allow you to do that. But that's a
09:50:36 17 decision you need to make, and you can speak with your
09:50:39 18 attorney regarding that if you haven't all ready.
09:50:42 19 Miss Evans, do you need time right now to go over that?
09:50:50 20 If you do --

09:50:51 21 MS. EVANS: Could I have just one moment,
09:50:52 22 Your Honor?

09:50:53 23 THE COURT: Yeah. You mute it or put --
09:50:53 24 (Defendant conferred with his attorney off
09:51:00 25 the record.)

09:51:00 1 MS. EVANS: He has no objection to that,
09:51:02 2 Your Honor. He has no objection to that, Your Honor.
09:51:07 3 We had discussed to have additional time to review the
09:51:11 4 discovery, and I've explained that to him before he came
09:51:15 5 in here today, and he understands his right to speedy
09:51:18 6 trial, and that this may toll that time based on a
09:51:23 7 30-day request.

09:51:24 8 THE COURT: Here's a couple of things I'll
09:51:25 9 do in regards to that information. First of all,
09:51:29 10 Mr. Booker, did you have a chance to talk to Miss Evans,
09:51:33 11 your attorney, regarding the speedy trial time issue?

09:51:38 12 THE DEFENDANT: Umm, I think so.

09:51:40 13 THE COURT: Do you want more time to talk to
09:51:42 14 her?

09:51:44 15 THE DEFENDANT: Huh?

09:51:45 16 THE COURT: Do you want more time to talk to
09:51:47 17 her about that?

09:51:48 18 THE DEFENDANT: I mean, not really. I mean,
09:51:50 19 not really much to talk about, you know. We have time.
09:51:54 20 We have time. I'm not in any rush at all.

09:51:56 21 THE COURT: And here's what would happen
09:51:58 22 regarding that. If the court were to stop the running
09:52:01 23 of your speedy trial time, then it would not start up
09:52:05 24 again until our next court date. Do you understand
09:52:09 25 that?

09:52:11 1 THE DEFENDANT: Repeat that again.

09:52:14 2 THE COURT: If you make a motion to
09:52:15 3 continue, in effect, this hearing, or my second question
09:52:19 4 to counsel would be, the court's inclined to just enter
09:52:23 5 a scheduling order to give defendant a deadline in which
09:52:27 6 to file any motions, the government response time, and
09:52:31 7 then to set either a motion hearing and/or status
09:52:35 8 hearing afterwards. That would be the court's
09:52:39 9 suggestion. Then Mr. Booker, starting from today until
09:52:44 10 that next court date, which could be down the road, your
09:52:48 11 speedy trial time would not be running. It would stop.
09:52:53 12 Do you understand that?

09:52:59 13 THE DEFENDANT: Yes, sir.

09:53:01 14 THE COURT: Is that what you want the court
09:53:02 15 to do?

09:53:05 16 THE DEFENDANT: I mean, I see it this way,
09:53:07 17 you know.

09:53:07 18 MS. EVANS: Your Honor, can I have just one
09:53:09 19 moment?

09:53:09 20 THE COURT: Yes.

09:53:12 21 (Miss Evans conferring with the defendant
09:53:17 22 off the record.)

09:53:32 23 MS. EVANS: Thank you, Judge. I believe
09:53:35 24 Mr. Booker's prepared to respond to your question.

09:53:37 25 THE COURT: Again --

09:53:38 1 THE DEFENDANT: Yeah, I'm definitely okay
09:53:40 2 with that.

09:53:41 3 THE COURT: Okay. So, my question to you,
09:53:43 4 Mr. Booker, again, you've spoken to your attorney. My
09:53:46 5 question to you is, after I've gone over what that would
09:53:48 6 mean in terms of schedules and time, the question to you
09:53:53 7 is, is that what you want the court to do? Do you want
09:53:56 8 the court to grant your request to stop the running of
09:53:59 9 your speedy trial time from today's date until our next
09:54:02 10 court date?

09:54:03 11 THE DEFENDANT: Yes, sir.

09:54:04 12 THE COURT: Now, has anyone forced you into
09:54:06 13 doing that?

09:54:07 14 THE DEFENDANT: No.

09:54:11 15 THE COURT: I'm sorry?

09:54:13 16 THE DEFENDANT: I said nobody's forcing me
09:54:15 17 to do anything.

09:54:16 18 THE COURT: Has anyone threatened you into
09:54:18 19 doing that?

09:54:19 20 THE DEFENDANT: No.

09:54:21 21 THE COURT: Are you telling the court you're
09:54:22 22 making this request of your own free will?

09:54:24 23 THE DEFENDANT: Yes.

09:54:27 24 THE COURT: Based on that, the court would
09:54:30 25 find that there's a good reason, a good basis for the

09:54:36 1 court to grant your request. It appears that you have
09:54:40 2 not received all the discovery that the government has
09:54:44 3 regarding your case, and that your attorney needs to be
09:54:47 4 able to review that, and then also review that with you,
09:54:52 5 at which time that you would be in a position to make an
09:54:57 6 informed decision as to what you want to do with your
09:55:01 7 case. Again, there's options, and you can talk to your
09:55:04 8 attorney about what they are after you review the
09:55:07 9 discovery. And Miss Evans, if I understood what you
09:55:10 10 said initially, you thought an additional 30 days before
09:55:15 11 the court were to set a motion filing deadline?

09:55:21 12 MS. EVANS: Yes, sir, that 30 days, we
09:55:24 13 should be prepared to file motions on that date or
09:55:26 14 advise the court if we're going to take a different
09:55:29 15 course.

09:55:30 16 THE COURT: Here's the schedule I would
09:55:32 17 suggest to counsel. I would suggest that if there are
09:55:36 18 any motions that are going to be filed, that they be
09:55:39 19 filed on July 29th, and if it's defendant's motion, then
09:55:46 20 the government's response would be due August 10th, and
09:55:54 21 the court's going to set this for a motion hearing slash
09:55:59 22 status hearing if there are no motions filed for
09:56:05 23 August 19th at 9:30 in the morning. Unless, again,
09:56:17 24 counsel has any objection to that schedule, court's also
09:56:22 25 going to add to the record in regards to that speedy

09:56:26 1 trial time being tolled during this time period. The
09:56:31 2 court makes that finding based again on counsel needing
09:56:36 3 more time to review discovery. If the court were not to
09:56:41 4 grant that request, the court would find that it would
09:56:44 5 interfere and deprive defendant of his right to be
09:56:51 6 adequately and effectively represented, and to be
09:56:55 7 adequately and effectively informed of the discovery the
09:57:02 8 government possesses. Court would find that that would
09:57:04 9 be a miscarriage of justice for the court not to do
09:57:10 10 that. Court would also find that under the ends of
09:57:12 11 justice provision, that the ends of justice outweigh the
09:57:16 12 interests of the defendant and the public from the
09:57:18 13 speedy trial time running during this time period.
09:57:23 14 That's noted for the record. Again, anything else from
09:57:28 15 the government?

09:57:31 16 MR. MATTIVI: No, nothing further from the
09:57:33 17 government, Your Honor. Thank you.

09:57:34 18 THE COURT: Anything else from defendant?

09:57:35 19 MS. EVANS: No, Your Honor. Thank you.

09:57:37 20 THE COURT: Again, Mr. Booker, you just need
09:57:40 21 this time to talk to Miss Evans in regards to your case,
09:57:44 22 and then we'll have a schedule in place, and we'll see
09:57:48 23 what takes place over this -- this time period. If
09:57:53 24 there's nothing else, this hearing's adjourned. Thank
09:57:55 25 you.

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MR. SMITH: Thank you, Your Honor.

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MR. MATTIVI: Thank you, Your Honor.

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(Whereupon court took a recess.)

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C E R T I F I C A T E

I, Nancy Moroney Wiss, a Certified Shorthand Reporter and the regularly appointed, qualified and acting official reporter of the United States District Court for the District of Kansas, do hereby certify that as such official reporter, I was present at and reported in machine shorthand the above and foregoing proceedings.

I further certify that the foregoing transcript, consisting of 11 typewritten pages, is a full, true, and correct reproduction of my shorthand notes as reflected by this transcript.

SIGNED July 20, 2016.

S/ _____

Nancy Moroney Wiss, CSR, CM, FCRR

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