

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
DANVILLE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESSE W. WILLIAMS, SHERIFF  
OF PATRICK COUNTY, a Constitu-  
tional Officer of the Common-  
wealth of Virginia and  
Elected under the Laws of the  
Commonwealth,

Defendant.

CIVIL ACTION  
NO. 83-0094-D

MEMORANDUM OF PLAINTIFF UNITED STATES  
IN OPPOSITION TO MOTION OF DEFENDANT  
JESSE W. WILLIAMS FOR CONTINUANCE OF TRIAL

INTRODUCTION

By the letter dated September 16, 1983, this Court notified counsel for each of the parties in this action that trial had been set to commence on January 11, 1984. In that letter, the Court also advised counsel that if that trial date was not suitable, counsel should contact the Clerk of Court within five days of counsel's receipt of the Court's letter. Thereafter, by letter dated September 23, 1983, the United States advised the Court that it would be prepared to go forward on January 11, 1984.

Although defendant Jesse W. Williams never responded to the Court's September 16, 1983 letter, the defendant nevertheless served a motion, on November 22, 1983 and more than two months after the Court's letter, requesting a continuance of trial in this action. For the reasons hereafter set forth, this Court should deny defendant's motion.

#### ARGUMENT

Initially, in his November 22, 1983 letter to the Court which accompanied defendant's motion, counsel for defendant grounds his request for a continuance solely on his "feel[ing] that the case will not be ready for trial by that date." Contrary to this assertion, the United States' case will be ready to present on January 11, 1984; it is only the defendant who apparently is claiming unpreparedness at this late date.

In an effort to demonstrate why the defendant will not be ready to go forward on the scheduled trial date, the defendant has identified two factors: he has just recently served a set of interrogatories upon United States; and he recently was informed that the United States has a third identifiable victim of discrimination. These factors, however, fail to warrant a continuance of the trial. The defendant's interrogatories to the United States, served on November 16, 1983, constitute the first discovery that has been undertaken by the defendant, despite the facts that the complaint in the case was filed on June 29, 1983,

and the trial date was set over two months ago. Certainly this is a self-imposed delay. Further, it strains credibility for the defendant to suggest that he is unaware of the specifics of the United States' claim against the defendant. This case arose as a result of a charge of sex discrimination filed by Doris Scales with the Equal Employment Opportunity Commission on July 30, 1980, over three years ago. The record reflects (Govt. Ex. 82-A attached to Deposition of defendant Jesse W. Williams taken October 12, 1983) that the defendant was served with a copy of this charge as well as the EEOC's determination of reasonable cause; and that it was only after unsuccessful attempts to conciliate the charge that it was referred to the Department of Justice. After the charge had been referred to the Department, counsel for the United States met with counsel for the defendant in March 1983 in yet another attempt to resolve this matter. At that time, we fully discussed with counsel for the defendant the merits of the claims of Doris Scales, as well as Stephanie Ressel, another woman who we had identified as a victim of unlawful discrimination. The United States also provided counsel for the defendant with information regarding each woman's interim earnings to aid in determining the appropriate amount of backpay for each. Nor should counsel for the defendant be in the dark as to the specifics of the claim of the third woman the United States has identified as a victim of unlawful discrimination,


Wanda Hylton, since he was present at this woman's deposition which was taken by the United States on December 2, 1983.

Lastly, even if we were to overlook the defendant's failure to date to have taken the depositions of Mss. Scales and Ressel, we do not understand why the defendant cannot take these two depositions in the over three week period of time between the date our answers to interrogatories are due (12/19/83) and the trial date (1/11/84). To this end, we will seek to accommodate opposing counsel's schedule in the taking of these depositions.

CONCLUSION

For the reasons set forth above, defendant's motion for continuance of trial should not be granted. Nevertheless, if the Court is of the view that this motion should be granted, the United States requests that the Court not grant a continuance of trial of longer than two (2) weeks.

Respectfully submitted,



JOHN M. GADZICHOWSKI  
MELISSA PAGE MARSHALL

Attorneys

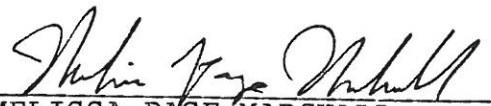
U.S. Department of Justice  
Civil Rights Division  
Washington, D.C. 20530  
(202) 633-3895

Counsel for Plaintiff United  
States of America

CERTIFICATE OF SERVICE

I, MELISSA P. MARSHALL, hereby certify that on December 6, 1983, I served a copy of the foregoing Memorandum of Plaintiff United States in Opposition to Motion of Defendant Jesse W. Williams for Continuance of Trial, by United States Express Mail, upon the following counsel for the defendant:

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