ORIGINAL

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
DEC 20 1999
NANCY DOHERTY, CLERK
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	CASE NUMBER 3:99-CR-084-X
	§	
ALBERT LOUIS LIPSCOMB (01)	§	
FLOYD OLLIS RICHARDS (02)	§	
YELLOW CHECK CAB COMPANY OF	§	
DALLAS/FORT WORTH, INC. (03)	§	
CHECKER CAB COMPANY OF	§	
DALLAS/FORT WORTH, INC. (04)	§	
	§	
Defendant.	§	

ORDER OF WITHIN DISTRICT TRANSFER

As everyone knows this case will involve the trial of one of the best known sitting elected officials in the Dallas/Fort Worth metroplex for allegations of public corruption. This Court cannot recall such a trial of a sitting elected official in Dallas for allegations of public corruption. This case has already received significant media attention and undoubtedly will receive more.

The Court notes that both sides have requested or not opposed requests for individual voir dire examination of the prospective jury panel and both sides have requested use of a jury questionnaire. Both motions, unusual and rare motions in federal criminal cases in Dallas, are made precisely because of the high profile of Defendant Lipscomb, a Dallas City Councilman of twelve years experience and one of the most influential and well known political leaders in the Dallas African American community for the last three decades. Councilman Lipscomb has been an effective representative of his constituency and locally has strong supporters and detractors. These

facts will obviously make selection of a jury of twelve with no preconceived opinions about Al Lipscomb no easy task.

As stated this case has thus far generated substantial publicity in the local media and will generate more throughout the trial. Such coverage has resulted in the Court reading in the newspapers certain information that has been filed under seal. The Court is also concerned about the ability to select a fair and impartial jury.

In considering the various motions regarding jury selection that both sides have filed the Court is not convinced that such measures would be sufficient to assure Councilman Lipscomb, the other defendants, and the Government a fair trial. It is this Court's fervent desire and absolute obligation to see to it that a fair trial is conducted - fair to both the defendants and the Government. This Court will do all in its power under the law to make sure the verdict in this case is based on the evidence presented in the courtroom, and absolutely nothing else.

There is no "divisional" venue in criminal cases under Federal Criminal Rule of Procedure 18. Since the 1966 amendment of this rule providing for prosecution to be had in the district in which the offense was committed, a division of a federal judicial district is no longer a unit of venue in criminal cases. *United States vs. Burns*, 662 F.2d 1378 (11th Cir., 1981); *Zicarelli vs. Gray*, 543 F.2d 466 (3rd Cir., 1976). Within district transfers of criminal cases are allowed under the law in this circuit. See *United States vs.Bridges*, 551 F.2d 651 (5th Cir., 1977) and *United States vs. James*, 528 F.2d 999 (5th Cir., 1976), *cert. denied*, 97 S.Ct. 382, 770. Indeed, this Court disposed of *all* criminal cases filed in the Wichita Falls Division of the Northern District of Texas (about 100 cases) over a 4 ½ year period (1994 to 1999) in the Dallas Division of the Northern District of Texas. The law is clear that in the Court's sound discretion, after considering the statutory elements, which this Court has done, this case may be tried anywhere within the Northern District of Texas.

Amarillo is a good size city serviced by several airlines and is only a five hour drive from Dallas. No defendant is indigent and all have retained, as opposed to appointed, council. The Court has made a careful analysis and given due consideration of the convenience of the witnesses and the parties, and considered the prompt administration of justice. These considerations, coupled with the concerns for selection of an impartial jury as expressed by the parties in their pretrial motions, as well as all the concerns the Court has expressed above, causes the Court to find that the prompt administration of justice would best be effectuated by having the trial of this case in the Amarillo Division of the Northern District of Texas.

Trial can and will begin promptly on the same day as previously scheduled, January 11, 2000 at 10:00 a.m., 1205 East 5th Street, Amarillo, Texas. Judge Mary Lou Robinson has made her courtroom available for the trial of this case. Hotel rooms in Amarillo in January will not be a problem. For the convenience of the litigants and witness over three weeks notice is hereby given for arrangements to be made to conduct the trial in Amarillo.

The Court is absolutely convinced that the prompt administration of justice will best be served by conducting this trial in Amarillo, where it is unlikely that few, if any on the jury panel will have ever heard of Al Lipscomb or Floyd Richards, and fewer still, if any will have any preconceived ideas or opinions whatsoever about them. This will help assure that the jury verdict is based on the merits of the evidence presented in the courtroom, and nothing else.

IT IS SO ORDERED this 20th day of December, 1999.

Joe Kendall

JOE KENDALL
UNITED STATES DISTRICT JUDGE