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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

UNITED STATES OF AMERICA * CRIMINAL ACTION
* NUMBER 15-00012-01
*
v. * February 3, 2016
*
ADLEY LEO DYSON, JR. * Shreveport, Louisiana
*
* * * * *

TELEPHONE CONFERENCE

Certified transcript of proceedings before the Honorable
Donald E. Walter, United States District Judge.

APPEARANCES:

FOR THE GOVERNMENT: John Luke Walker
Robert F. Moore
United States Attorney's Office
800 Lafayette Street, Suite 2200
Lafayette, Louisiana 70501

FOR THE DEFENDANT: Cristie Gautreaux Gibbens
Federal Public Defender's Office
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Proceedings recorded by mechanical stenography, transcript
produced by computer.

1 THE COURT: Hello?

2 MR. WALKER: Hello, Judge. It's Luke Walker and
3 Christi Gibbens.

4 MS. GIBBENS: Hi, Judge.

5 THE COURT: How are you?

6 I've got before me an order signed by the chief judge,
7 essentially: Considering the inability of the presiding judge
8 to be present at the ongoing trial, the court appoints me,
9 Donald Walter, as trial judge to conclude the case, the case
10 being *United States of America v. Addly Leo Dyson, Jr.*,
11 Number 15-00012-01. Present by phone for the government is
12 Luke Walker, and for the defendant, Cristie Gautreaux Gibbens.

13 Am I correct with all that?

14 MR WALKER: You are correct, Your Honor. Also,
15 Robert Moore is in the room. He is my co-counsel on the case.

16 THE COURT: Okay. Now, I believe I am expecting a
17 motion from both sides? What is that?

18 MR. WALKER: The defense intends to file a motion
19 which we intend to join. She needs to put on the record the
20 extent of her motion.

21 THE COURT: All right.

22 MS. GIBBENS: Your Honor, I'm moving for a mistrial
23 based on a number of issues that arose in voir dire on Monday,
24 the first day of trial. And these issues included: The
25 jurors were not -- they were not qualified as jurors ahead of

1 time in the voir dire regarding citizenship and those sorts of
2 things. There was no questioning or explanation regarding the
3 burden of proof, presumption of innocence, or Fifth Amendment
4 rights to silence. There were no preliminary instructions and
5 no information on what charges the defendant faced or the
6 duties of jurors, and the jurors were not cautioned not to
7 talk about or investigate the case amongst themselves.

8 And the following day, on February 2nd, the government
9 asked for curative measures for these defects, and the defense
10 moved for a mistrial. The judge said that we would attempt
11 curative measures. The US Attorney qualified the jurors and
12 instructed jurors on certain issues.

13 The defense now moves for a mistrial because the
14 curative measures were insufficient to cure the defects and,
15 further, the issue about the jurors not talking amongst
16 themselves or investigating the case on their own was never
17 addressed. And furthermore, the delays in the proceedings
18 beginning yesterday morning at 11:00 prejudices the defense.

19 I'd like to make a record that I take responsibility for
20 my part in this by not objecting and doing other things to
21 cure these problems, but all of these things combined have
22 adversely affected my client, Mr. Adley Dyson's right to a
23 fair trial.

24 THE COURT: You've discussed this with him?

25 MS. GIBBENS: Yes, I have, Your Honor.

1 THE COURT: And he agrees?

2 MS. GIBBENS: Yes, he does.

3 THE COURT: And, Mr. Walker, the government joins
4 in the motion?

5 MR. WALKER: I do, Your Honor. And just very
6 briefly, the reason I'm joining on this is because I was
7 instructed to, on the second day of trial, essentially re-voir
8 dire and instruct the jury. And I ended up -- based on that
9 order, I instructed the jury as to reasonable doubt,
10 presumption of innocence. I also instructed the jury as to
11 the fact that they could not speak to each other or others
12 pending the outcome of the case. And essentially I became --
13 at least in appearance sake, I was acting as if I were the
14 judge, and I recognize that's something I can't do. It was
15 not my intention to do that, but as I look back on it, I
16 believe that based on I was told to do, I did, in appearance,
17 become an arm of the court, and I think that prejudices all
18 parties and I don't think that's curable, and so as a result
19 of that, I'm joining in this motion for a mistrial.

20 THE COURT: All right. I'm going to grant it, and
21 I'll reset it -- give me some time to figure out when to reset
22 it. Okay?

23 MR. WALKER: Yes, Your Honor.

24 And, Your Honor, I believe that Ms. Gibbens and I are in
25 discussion at this moment, and if the Court would be willing

1 to -- I'm gone next week, but the week after next, we can call
2 the Court because I believe we may be able to set this matter
3 for something other than a trial.

4 THE COURT: Okay. Let me know. Thank you both
5 very much, and I'm sorry that y'all had to go through all of
6 that.

7 MR. WALKER: Thanks, Judge.

8 MS. GIBBENS: Thank you, Judge.

9 THE COURT: Bye-bye.

10 MS. GIBBENS: Bye.

11 (End of proceedings.)

12 **CERTIFICATE**

13 I certify that the foregoing is a correct transcript from the
14 record of proceedings in the above-entitled matter.

15 s/ Myra Primeaux
Federal Official Court Reporter

Date: February 3, 2016

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