

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 1:06CR20-9
(Judge Keeley)

DARRELL LAW a/k/a "B".

Defendant.

ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION CONCERNING DEFENDANT'S MOTIONS TO
DISMISS, MOTION TO SEVER AND MOTION TO SUPPRESS

On June 21, 2006, Defendant Darrell Law ("Law") filed a pro se "Motion to Appoint Counsel and to Dismiss Counts Nine and Ten of the Indictment" (dkt no. 152), requesting that he be appointed counsel and arraigned on the criminal charges at issue in this case and that the Court dismiss Counts Nine and Ten of the Indictment.¹ As basis for his request for dismissal, he stated that Counts Nine and Ten were vague and failed to state the specific amount of crack cocaine that he allegedly distributed on November 18, 2005.

On July 19, 2006, Law filed a second pro se motion to dismiss with respect to all counts in the Indictment (dkt no. 207), restating his prior bases as well as asserting the Government's objection to answering a Bill of Particulars, the inadequacy of his court-appointed lawyer, and specific words and phrases allegedly used by the Government in the Indictment to convince "any[one] and everyone" that the defendants are guilty as new grounds for dismissal. On July 22, 2006, defense counsel also filed a motion to

¹Magistrate Judge Kaul appointed counsel, and Law appeared before him for his arraignment on July 5, 2006.

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dismiss as well as motions to suppress and to sever on Law's behalf.

The Court referred these pending motions to Magistrate Judge John S. Kaul to conduct a hearing and recommend a disposition for the motions. On August 2, 2006, Magistrate Judge Kaul issued his Report and Recommendation, recommending that Law's first pro se motion to dismiss (dkt no. 152) be denied as mooted by his subsequent pro se motion to dismiss (dkt no. 207) and the motion to dismiss filed by counsel on his behalf (dkt no. 210). He further recommended that defendants' subsequent motions to dismiss (dkt nos. 207 & 210) be denied because Counts 1, 9, and 10 (the only counts pertaining to Law) of the Indictment provide a "plain concise, and definite written statement of the essential facts constituting the offense charged" as required by Rule 7 of the Federal Rules of Criminal Procedure. He further found that those Counts sufficiently set forth the elements of the offense being charged and apprise the defendant of the charge so that he may prepare a defense in the present and be protected against double jeopardy in the future as required by Fourth Circuit case law.

The Magistrate Judge also recommended that the Court deny Law's motion to sever because the defendant withdrew that motion at the pretrial motions hearing on August 1, 2006. Finally, he recommended that the Court deny the defendant's motion to suppress

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his July 19, 2006 letter to the Court because the motion did not have a basis in the law.

Magistrate Judge Kaulf advised the defendant that he should file any objections to his recommendations no later than 10 days after receiving service of his Report and Recommendation. He also warned the defendant that a failure to do so would result in the waiver of his appellate rights with respect to these motions.² Nevertheless, Law filed no objections to the Magistrate Judge's recommendations.

Accordingly, the Court **ADOPTS** Magistrate Judge Kaulf's recommendations, **DENIES AS MOOT** Law's first pro se motion to dismiss (dkt no. 152), and **DENIES** his subsequent motions to dismiss (dkt nos. 207 & 210), motion to sever (dkt no. 208) and motion to suppress (dkt no. 214).

The clerk is directed to transmit copies of this order to the defendant, counsel of record and all appropriate agencies.

DATED: August 15, 2006.

² Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

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/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE