

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CRIMINAL ACTION NO. 3:08-CR-49
(BAILEY)**

FRANKLIN ALEXIS,

Defendant.

ORDER GRANTING MOTION TO DISMISS INDICTMENT WITHOUT PREJUDICE

On this day, the above-styled matter came before this Court for consideration of the Government's Motion to Dismiss Indictment Without Prejudice [Doc. 141], filed on May 16, 2013. In support of its Motion, the Government represents that the defendant was indicted in March of 2008, and to date the defendant remains a fugitive and was last known to be in Haiti, his home country, in 2009.

Federal Rule of Criminal Procedure 48(a) provides that the Government "may, with leave of court, dismiss an indictment, information or complaint." FED. R. CRIM. P. 48(a). While the rule confers discretion on the district court to deny the government's motion to dismiss a charging document, this discretion is not broad. *United States v. Perate*, 719 F.2d 706, 710 (4th Cir. 1983) ("[T]he trial court has little discretion in considering a government motion to dismiss made pursuant to [Rule 48(a)]" (internal citations omitted)). The Court must grant the Government's Rule 48(a) motion absent a finding of bad faith or disservice to the public interest. *Id.*; see also *Rinaldi v. United States*, 434 U.S. 22, 30

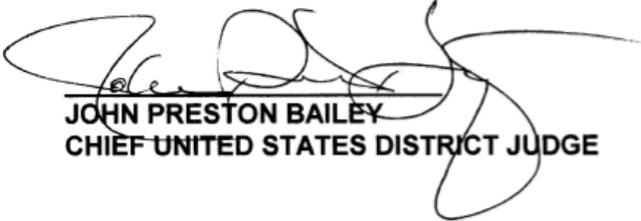
(1977); **United States v. Goodson**, 204 F.3d 508, 512 (4th Cir. 2000).

Upon consideration of the above, and finding the Motion to be made in good faith, this Court hereby **ORDERS** that the Government's Motion to Dismiss Indictment Without Prejudice [**Doc. 141**] be **GRANTED**. Accordingly, this Court hereby **DISMISSES** the Indictment [**Doc. 1**] **WITHOUT PREJUDICE** insofar as it pertains to this defendant.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

It is so **ORDERED**.

DATED: May 20, 2013.



JOHN PRESTON BAILEY
CHIEF UNITED STATES DISTRICT JUDGE