

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:09CR14
(STAMP)

ROBERTA CHARLENE WODNICKI,

Defendant.

ORDER DEFERRING RULING ON UNITED STATES'
MOTION FOR NOTICE OF TREATMENT OF CRIMINAL CONTEMPT
AS A MISDEMEANOR PENDING RECEIPT OF FURTHER
INFORMATION AND SETTING BRIEFING SCHEDULE

On May 18, 2009, this Court accepted the defendant's plea of guilty to a single-count amended information for contempt pursuant to 18 U.S.C. § 401, deferred adjudging the defendant guilty, and deferred accepting or rejecting the proposed plea agreement. In paragraph two of the plea agreement, the parties agreed that:

The United States will at the plea hearing file a motion with the Court that the Information be treated as a misdemeanor and that any sentence imposed not exceed six months, and a fine not more than \$1,000. (See In re Jessen, 738 F. Supp. 960 (W.D.N.C. 1990)). If the Court does not grant the motion, the defendant shall have the option to not proceed forward with the plea.

Thereafter, on May 19, 2009, the government filed a motion for notice of treatment of criminal contempt as a misdemeanor.

"Criminal contempt is neither a felony nor a misdemeanor; instead it has been described by the Supreme Court as 'an offense sui generis.'" United States v. Davis, 918 F.2d 174 (4th Cir. 1990) (unpublished) (quoting Cheff v. Schrackenberg, 384 U.S. 373, 380 (1966)). Thus, this Court believes that it would benefit from

briefing by the parties concerning the reasons why the information should be treated as a misdemeanor, as well as the appropriate classification of misdemeanor. Accordingly, the parties shall file memoranda on this issue, citing appropriate authority, by no later than **June 19, 2009**. This Court defers a ruling on this issue until it has received and reviewed the memoranda submitted by the parties and considered this matter further.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to the defendant and to counsel of record herein.

DATED: June 5, 2009

/s/Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE