

STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
VS.	§	OF TRAVIS COUNTY
	§	
JAMES RICHARD "RICK" PERRY	§	390TH JUDICIAL DISTRICT

**OPPOSED MOTION FOR IMMEDIATE TRANSCRIPTION
OF GRAND JURY TESTIMONY**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, JAMES RICHARD "RICK" PERRY, by and through his counsel of record, and pursuant to the Court's jurisdiction over this case, presents this Opposed Motion For Immediate Transcription Of Grand Jury Testimony, and would show this Court the following:

I.

Procedural Overview Of Situation

On August 22, 2014, Mr. McCrum and Mr. Botsford had a brief meeting with the Court in chambers prior to the Court's brief, on-the-record announcement. During this in-chambers meeting, Mr. Botsford advised that a pretrial application for writ of habeas corpus would be filed on Monday, August 25, 2014. Mr. Botsford also informed the Court that at any future hearing on that forthcoming writ application, he would need to have Mr. McCrum produce, for the Court's *in camera* inspection, a transcription of the testimony of all witnesses who appeared before the grand jury. Mr. Botsford explained that Governor Perry's pretrial application for writ of habeas corpus required the Court to conduct an *in camera* inspection of grand jury testimony, to determine whether the grand jury heard testimony that was privileged by the Speech or Debate Clause and/or whether the prosecution would necessarily be premised upon the introduction of evidence privileged by the

Filed by the
The District Court
of Travis County, Texas

JL OCT 10 2014
At 9:06 A.M.
Amalia Rodriguez-Mendoza, Clerk



Speech or Debate Clause.¹ Moreover, Mr. Botsford also stated that the grand jury testimony would need to be included in the record, under seal, for any potential appeal.

On September 17, 2014, Mr. Botsford and Mr. Buzbee conferred with Mr. McCrum regarding a number of topics. Mr. Botsford referenced the above in-chambers discussion on August 22, 2014, and asked Mr. McCrum whether the grand jury testimony has been transcribed. Mr. McCrum represented that the grand jury testimony has not yet been transcribed. Mr. Botsford asked Mr. McCrum if he would agree to have the grand jury testimony transcribed so that it would be available for the Court to review *in camera* in connection with the pending writ and/or first motion to quash and dismiss. Mr. McCrum replied that he was "too busy" and "did not have the time" to have the grand jury testimony transcribed. He further stated that he was not going to have it transcribed unless the Court ordered it, and told Messrs. Botsford and Buzbee to file a motion with the Court.

II.

Request For Relief

Because Mr. McCrum, the only person other than this Court who can direct the grand jury court reporter to transcribe the testimony, is "too busy"² to arrange for the transcription of the grand

¹ Governor Perry has raised serious Speech or Debate Clause issues in his August 25, 2014 application for pretrial writ of habeas corpus at pages 13 to 17, and in his September 8, 2014 first motion to quash and dismiss the indictment at pages 9 to 13. Given that the purpose of the Speech or Debate Clause is to create an evidentiary privilege that immunizes legislators "not only from the consequences of litigation's results but also from the burden of defending themselves," *Dombrowski v. Eastland*, 387 U.S. 82, 85 (1967), there is no legitimate reason to permit Mr. McCrum's purported time constraints to forestall the preparation of the grand jury testimony.

² Curiously, while Mr. McCrum is "too busy" to arrange for the transcription of the grand jury testimony by the grand jury court reporter, which should only entail a telephone call to the court reporter, he has sufficient time to accept a recent engagement that will undoubtedly require hundreds



jury testimony until ordered to do so by this Court, and because such transcription is material and essential to avoid future, unnecessary delay, this motion is respectfully submitted. Governor Perry respectfully requests the Court to exercise its discretion to order Mr. McCrum to direct the grand jury court reporter to transcribe the grand jury testimony and thereafter produce a copy of all grand jury testimony (and exhibits tendered to the grand jury) to the Court so that:

- (1) the Court can have the grand jury testimony and exhibits readily available if and when the Court determines it necessary and appropriate for the Court to review, *in camera*, in connection with Governor Perry's pretrial writ application;
- (2) the Court can have the grand jury testimony and exhibits readily available for inclusion in the record as a sealed exhibit in connection with a hearing on Governor Perry's pretrial writ application; and
- (3) the Court can order the grand jury testimony and exhibits included in the appellate record³ as a sealed exhibit, should an appeal be taken by any party from the Court's ultimate decision regarding the grounds contained in Governor Perry's pretrial writ application.

of hours of his time. On September 8, 2014, Mr. McCrum filed a "notice of appearance as counsel" in *United States v. Fisch*, No. H-11-722, United States District Court, Southern District of Texas, Houston Division. *See Exhibit 1*. As reflected by *Exhibit 2* (portion of docket sheet from pacer), Mr. McCrum physically appeared in court that same day. His notice of appearance reflects that as of September 8, 2014, he has six cases scheduled for trial between October 14, 2014 and April 7, 2015, and it makes no reference to the instant case. As of September 12, 2014, the *Fisch* case is set for trial on April 20, 2015. *See Exhibit 3*.

³ *See Spence v. State*, 795 S.W.2d 743, 748-49 (Tex.Crim.App. 1990)(noting that "[t]he Grand Jury testimony was sealed by order of the trial judge and was submitted with the record on appeal to this Court"); *Brown v. State*, 657 S.W.2d 117, 119-120 (Tex.Crim.App. 1983)(noting that "[a]fter a careful review of the grand jury testimony [not produced to the defendant], [the Court of Criminal Appeals] have found nothing material to appellant's defense")(explanation added); *Reado v. State*, 690 S.W.2d 15, 19 (Tex. App.— Beaumont 1984, no pet.) (noting trial court's denial of defendant's motion to produce grand jury testimony, but ordering the district attorney to seal the grand jury transcript, recordings, record of proceedings and all investigation material and forward to the court of appeals for appellate purposes).



III.

Authority For Requested Relief

The Court has the power to order Mr. McCrum to have the grand jury testimony transcribed. *See Brown v. State*, 938 S.W.2d 66, 67-68 (Tex.App.— Tyler 1996, pet. ref'd) (trial court ordered grand jury testimony produced, prosecutor "instructed the court reporter to transcribe the grand jury testimony," and prosecutor thereafter turned over to defense counsel copies of the transcriptions for several grand jury witnesses); *Brister v. State*, 1998 WL 884553 at *4 (Tex.App.— Dallas 1998, no pet.) (noting that special plea of double jeopardy was based on mistrial because the prosecutor had not timely provided exculpatory "grand jury testimony the State had been ordered to produce").

In this case, the primary purpose of such a transcription would be to evaluate Governor Perry's claim of privilege based on the Speech or Debate Clause. The Supreme Court has stated that "*in camera* review is a highly appropriate and useful means of dealing with claims of government privilege." *Kerr v. United States District Court for the N. Dist. of Cal.*, 426 U.S. 394, 406 (1976). *See also Zolin v. United States*, 491 U.S. 554, 568-570 (1989)(permitting *in camera* review of documents alleged to come within crime-fraud exception to attorney-client privilege). Specifically, in cases dealing with claims of privilege under the Speech or Debate Clause, lower federal courts have "sensibly concluded that *in camera* inspection of grand jury matters is required only on a showing that there is reason to believe Speech or Debate materials were presented to the grand jury." *United States v. Jefferson*, 534 F.Supp.2d 645, 649 (E.D. Va 2008) (citing *United States v. Rostenkowski*, 59 F.3d 1291, 1313 (D.C. Cir 1995); *United States v. Kolter*, 71 F.3d 425, 429-30 (D.C. Cir. 1995)). Thus, where an indictment contains and describes criminal conduct that falls



outside of the Speech or Debate Clause's protection, or when a defendant fails to provide "any reason to think that prohibited material was submitted to the grand jury," a defendant is not entitled to disclosure or *in camera* review of the grand jury record. *Id.* at 430 (quoting *United States v. Rostenkowski*, 59 F.3d at 1331).

In the present case, there can be no doubt that Count I describes conduct that falls within the Speech or Debate Clause protection, as it is based solely on the exercise of the Governor's constitutional veto power, an act done within his "legislative" capacity. *See Jessen Assocs., Inc. v. Bullock*, 531 S.W.2d 593, 598 (Tex. 1976) (Governor's "veto power is a legislative function and not an executive function"); *Fulmore v. Lane*, 140 S.W. 405, 411 (Tex. 1911); *Pickle v. McCall*, 24 S.W. 265, 268 (Tex. 1893). Governor Perry also asserts that Count II — the dissemination of his intent to veto, although labeled a "threat" by the indictment — also falls within the protection of the Speech or Debate Clause, thus further justifying *in camera* review. *See Gravel v. United States*, 408 U.S. 606, 625 (1972) (the Clause protects all communications that are "an integral part of the deliberative and communicative processes" involved in a legislative act, including communications with or among aides).

In this case, although Mr. McCrum has not yet endorsed on the indictment the names of the witnesses who appeared before the grand jury, *see* Texas Code of Criminal Procedure, article 20.20, the media was very efficient at identifying the witnesses who went into the grand jury room waiting room on the first floor of the Travis County Courthouse. According to various media reports, the following witnesses, listed in alphabetical order, appeared before the grand jury:

Ken Armbrister;
Allison Castle;
Gerald Daugherty;



Deece Eckstein;
John Hille;
Brandy Marty;
David Morales;
Rich Parsons;
Mike Morrissey;
Teresa Spears; and
Kirk Watson.

Of these eleven (11) individuals, seven (7) were employed by the State of Texas and working in close proximity to the Governor and/or the Office of the Governor⁴ during the relevant time frame covered by both counts of the indictment.⁵ And the time frame covered by the indictment — June 10, 2013 through June 14, 2013 — corresponds to the time frame immediately after the appropriations bill, SB1, was certified by the Comptroller's Office (on June 4, 2013) and sent to the Governor, to and including the date SB1 was vetoed in part and then signed by the Governor (on June 14, 2013).

There can be no realistic possibility that evidence relating to the Governor's veto and his discussions with staff inside the Governor's office was not presented to the grand jury. The veto and any discussions between the Governor and his staff regarding a veto are most certainly covered by the Speech or Debate Clause. Without an *in camera* inspection of the grand jury testimony (and exhibits used during the questioning), this Court will be unable to ascertain whether a "pervasive violation of the Speech or Debate Clause" has occurred. A "pervasive" violation justifies the dismissal of an indictment and bars a trial. *United States v. Renzi*, 651 F.3d 1012, 1027 (9th Cir.

⁴ Presumably, at least some of these seven individuals produced documents to the grand jury.

⁵ Senator Kirk Watson, Travis County Commissioner Gerald Daugherty, Travis County Assistant County Attorney John Hille, and Deece Eckstein were not associated with the Office of the Governor.



2011); *United States v. Swindall*, 971 F.2d 1531 (11th Cir. 1992); *United States v. Jefferson*, 546 F.3d 300, 314 n.8 (4th Cir. 2008); *United States v. Rostenkowski*, 59 F.3d at 1299; *United States v. Helstoski*, 635 F.2d 200, 205 (3rd Cir. 1980); *United States v. Renzi*, 686 F. Supp.2d 956, 985 (D. Arizona 2010)(discussing court's review of testimony and exhibits before the grand jury in order to ascertain "what transpired before the grand jury itself," whether, "legislative acts were presented to the grand jury" that were "an essential element of proof with respect to any count that cannot be excised" because "such counts must be dismissed"). This Court must ascertain exactly which privileged evidence was presented to the grand jury, and that can only be accomplished through an *in camera* inspection.

Additionally, transcription of the grand jury testimony will also allow Mr. McCrum to fulfill his duty to produce all exculpatory information to the defense. Grand jury testimony that is exculpatory to the guilt/innocence or potential punishment of the citizen accused is constitutionally required to be produced to the defense under Article I, Section 10 of the Texas Constitution and the Fifth and Fourteenth Amendments to the Constitution of the United States. *Cook v. State*, 940 S.W.2d 623, 633 (Tex.Crim.App. 1996) ("As the courts correctly concluded, the exculpatory grand jury testimony and impeachment evidence should have been delivered to appellant. The failure to do so constituted prosecutorial misconduct"). Suppression of "exculpatory and contradictory grand jury testimony and statements . . . is offensive to notions of fundamental fairness" and "undermines our system of justice with its guarantees that one accused of a crime may confront the State's witnesses with their own contradictory or exculpatory assertions and thereby clarify their statements and perhaps build his own defense." *Id.* at 635.

Unless Mr. McCrum can physically review the transcription of the grand jury testimony, he



cannot honor, let alone comply with, his constitutional duty to provide it to the defense. It is regrettable that Mr. McCrum apparently has no current desire to comply with his constitutional duties. It is even more regrettable that he is too busy to take the time to make arrangements with the grand jury court reporter to have the grand jury testimony transcribed, thereby necessitating this Court's intervention and the wasteful consumption of defensive resources in the preparation of this motion.

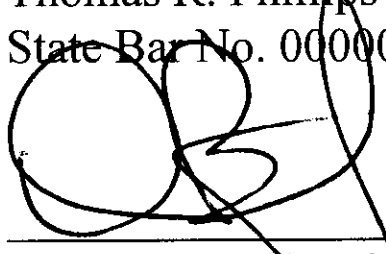
Prayer For Relief

WHEREFORE, PREMISES CONSIDERED, Governor Perry respectfully prays that this Honorable Court enter an order directing Mr. McCrum to immediately arrange for the transcription of the grand jury testimony in Cause No. D1DC13-100112, the grand jury investigation, and Cause No. D1DC14-100139, the instant indictment, and to tender a copy of said testimony and all exhibits used during the questioning of any grand jury witness to the Court for use once this Court begins addressing the issues raised by Governor Perry's application for writ of habeas corpus and/or first motion to quash and dismiss under the Speech or Debate Clause.

Respectfully submitted,

THE BUZBEE LAW FIRM
Anthony G. Buzbee
State Bar No. 24001820

BAKER BOTTS L.L.P.
Thomas R. Phillips
State Bar No. 00000102

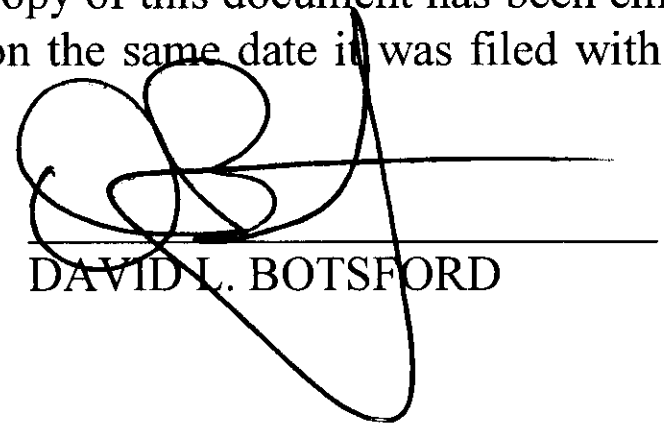


BOTSFORD & ROARK
DAVID L. BOTSFORD
State Bar No. 02687950



Certificate Of Service

This is to certify that a true and complete copy of this document has been emailed to Mr. Michael McCrum at michael@McCrumLaw.com on the same date it was filed with the District Clerk.



DAVID L. BOTSFORD



NO. D1DC14-100139

STATE OF TEXAS

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IN THE DISTRICT COURT

VS.

OF TRAVIS COUNTY

JAMES RICHARD "RICK" PERRY

390TH JUDICIAL DISTRICT

ORDER

Before the Court is the "Opposed Motion For Immediate Transcription Of Grand Jury Testimony" filed in this case on September ___, 2014. The Court has considered the motion, and the Court hereby GRANTS the motion. Accordingly, it is hereby ORDERED that Mr. McCrum immediately notify the grand jury court reporter to begin transcribing the grand jury testimony that was given in Cause No. D1DC13-100112, the grand jury investigation, and Cause No. D1DC14-100139, the instant indictment. Mr. McCrum is further ORDERED to immediately provide a copy of this ORDER to the Grand Jury Court Reporter and provide her name to the Court and she is ORDERED to keep the Court informed as to the progress of her transcription of all grand jury testimony relating to the investigation and indictment. Mr. McCrum is further ORDERED to provide an electronic copy of all transcribed grand jury testimony to the Court as soon as it becomes available, and to provide the Court with a copy of all documents and/or grand jury exhibits which were utilized during the questioning of any witness who appeared before any grand jury that heard any testimony leading to the return of the instant indictment.

Signed this _____ day of _____, 2014.

JUDGE PRESIDING



Notice Of Appearance As Counsel

EXHIBIT 1



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA
Plaintiff

v.

ABRAHAM MOSES FISCH
Defendant

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Case No. 11-CR-00772 (1)

NOTICE OF APPEARANCE AS COUNSEL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES MICHAEL MCCRUM with the McCrum Law Office and hereby enters this Notice of Appearance as counsel for Defendant Abraham Moses Fisch in the above-entitled and numbered cause.

For the Court's use in scheduling, counsel offers the following information regarding counsel's trial schedule:

1. October 14, 2014: *United States v. Andey Gray*, Cause No. 12-CR-885-FB, San Antonio Division, WDTX, the Honorable Chief Judge Fred Biery, presiding (anticipated 2-3 week trial);
2. November 4, 2014: *United States v. Reynaldo Gonzalez*, Cause No. 14-CR-245-MA, McAllen Division, SDTX, the Honorable U.S. District Judge Micaela Alvarez, presiding (anticipated 2 week trial);
3. November 10, 2014: *United States v. Oscar Rodriguez*, Cause No. 13-CR-587-XR, San Antonio Division, WDTX, the Honorable U.S. District Judge Xavier Rodriguez, presiding (anticipated 2 week trial);
4. January 26, 2015: *State of Texas v. Calvin Day*, Cause No. 2011-CR-3682, 379th Judicial District Court, Bexar County, Texas, the Honorable Judge Ron Rangel, presiding (anticipated 2 week trial);



5. February 23, 2015: *United States v. Robert Scully*, Cause No. 10-CR-593-DAE, San Antonio Division, WDTX, the Honorable Senior U.S. District Judge David Ezra, presiding (anticipated 3 week trial);

6. April 7, 2015: *Martin O'Neill v. Commissioner of Internal Revenue Service*, Cause No. 31218-12, United States Tax Court, sitting in San Antonio Division, the Honorable Judge Mark Holmes, presiding (anticipated 2 week trial).

Undersigned counsel represents that he is admitted to practice in the United States Courts of the Southern District of Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court allow Michael McCrum to appear as counsel of record on behalf of Defendant Abraham Moses Fisch, and for such other and further relief as this Court deems appropriate.

Respectfully submitted,

/s/ Michael McCrum

Michael McCrum

Texas State Bar No. 13493200

MCCRUM LAW OFFICE

700 N. St. Mary's Street, Suite 1900

San Antonio, TX 78205

(210) 225-2285

(210) 225-7045 (fax)

Counsel for Defendant Abraham Moses Fisch

Certificate of Service

I hereby certify that a copy of the above and foregoing document has been filed electronically, on this the 8th day of September 2014 and a copy sent to the United States Attorney's Office, and all other counsel through the court's electronic filing system.

/s/ Michael McCrum

Michael McCrum





EXHIBIT 2

Portion Of Pacer Docket Sheet

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CRIMINAL DOCKET FOR CASE #: 4:11-cr-00722-1**

Case title: USA v. Fisch et al

Date Filed: 10/19/2011

Assigned to: Judge Lee H Rosenthal

Defendant (1)

Abraham Moses Fisch
On Bond
also known as
Anthony Fisch

represented by **Abraham Moses Fisch**
713-222-8777
Email: dabronxjew@yahoo.com
PRO SE

Abraham Moses Fisch
District Court Information
922 Columbia
Houston, TX 77008
713-222-8777
Fax: 713-222-7556
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Dan Lamar Cogdell
Cogdell Law Firm, PLLC
402 Main Street
4th FL
Houston, TX 77002
713-426-2244
Fax: 713-426-2255
Email: dan@cogdell-law.com
TERMINATED: 05/29/2013
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Norman J Silverman
917 Franklin
4th Floor
Houston, TX 77002
713-526-1515
Fax: 713-526-1798
Email: lawyernorm@msn.com
TERMINATED: 08/22/2014
LEAD ATTORNEY
ATTORNEY TO BE NOTICED



Michael W McCrum
McCrum Law Office
700 North St. Mary's Street, Suite 1900
San Antonio, TX 78205
210-225-2285
Fax: 210-225-7045
Email: michael@mccrumlegal.com
ATTORNEY TO BE NOTICED

Pending Counts

CONSPIRACY

(1)

Conspiracy

(1s)

OBSTRUCTION OF JUSTICE

(2-5)

Obstruction of Justice

(2s-6s)

MONEY LAUNDERING CONSPIRACY

(6)

MONEY LAUNDERING

(7-15)

Money Laundering

(7s-16s)

FAILURE TO FILE TAX RETURN

(16-20)

Failure to Timely File Tax Return

(17s-21s)

Corrupt Endeavor to Impede the Due
Administrator of the Internal Revenue
Code

(22s)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Highest Offense Level (Terminated)

None

Disposition

Disposition



		held on 8/8/2014 before Judge Lee H Rosenthal.Court Reporter/Transcriber K. Metzger. Release of Transcript Restriction set for 11/17/2014, filed. (kmetzger) (Entered: 08/19/2014)
08/19/2014	<u>220</u>	TRANSCRIPT as to Abraham Moses Fisch, Monica Bertman re: Status Conference held on 8/13/2014 before Judge Lee H Rosenthal.Court Reporter/Transcriber K. Metzger. Ordering Party Abraham Fisch Release of Transcript Restriction set for 11/17/2014, filed. (kmetzger) (Entered: 08/19/2014)
08/20/2014	<u>221</u>	Notice of Filing of Official Transcript as to <u>219</u> Transcript, <u>220</u> Transcript,. Party notified, filed. (mmapps, 4) (Entered: 08/20/2014)
08/21/2014	<u>222</u>	Clerks Notice of Filing of an Appeal as to Abraham Moses Fisch. The following Notice of Appeal and related motions are pending in the District Court: <u>215</u> Notice of Appeal - Judgment and Sentence. Fee status: Paid. Reporter(s): ERO 10/28/11, 11/3/11, 4/12/13- M Malone 2/11/13- B Slavin 5/28/13, 2/25/14- J Sanchez 6/20/13- F Warner 9/13/13- K Metzger 10/24/13, 4/8/14,8/13/14,filed. (Attachments: # <u>1</u> NOA, # <u>2</u> Docket sheet) (smurdock, 4) (Entered: 08/21/2014)
08/21/2014		Appeal Review Notes as to Abraham Moses Fisch re: <u>215</u> Notice of Appeal - Judgment and Sentence, <u>208</u> MOTION for Reconsideration <i>Disqualification of Norman Silverman</i> , <u>203</u> MOTION for Reconsideration of <i>Conflict Hearing disqualifying Norman Silverman as attoreny for A. Fisch</i> . Fee status: Paid. The appeal filing fee has been paid. Number of DKT-13 Forms expected: 6. Some DKT13 forms have been submitted,filed.(smurdock, 4) (Entered: 08/21/2014)
08/22/2014		Attorney update in case as to Abraham Moses Fisch. Attorney Norman J Silverman terminated. (leddins, 4) (Entered: 08/22/2014)
08/25/2014	224	Minute entry for proceedings before the Hon. Lee H. Rosenthal. Status conference held on August 25, 2014. Mr. Bennett appeared and updated the court on a potential conflict of interest arising from his prior representation of Diego Colero, a government witness. Mr. Fisch informed the court that he is investigating options of representation by alternative counsel. The court reset the status conference for Tuesday, September 2, 2014 at 9:00 a.m. in Courtroom 11-B in order for Mr. Fisch to obtain alternative representation. If Mr. Fisch is able to obtain counsel by September 2, 2014, that lawyer must also appear at the status conference, at least by telephone. Appearances: Robert Johnson/John Pearson-AUSA, Mark Bennett and Abraham Fisch.(Court Reporter: K. Miller) (Interpreter:No) Deft continued on Bond, filed.(leddins, 4) (Entered: 08/26/2014)
09/02/2014	225	Minute entry for proceedings before the Hon. Lee H. Rosenthal. Status conference held on September 2, 2014. Mr. Fisch informed the court that he will obtain counsel by Monday, September 8, 2014. The court reset the status conference for Monday, September 8, 2014 at 7:30 a.m.in Courtroom 11-B. Mr. Fisch must appear with his lawyer at the status conference. Appearances: John Pearson-AUSA, Abraham Fisch and Regina Criswell(by phone) for Monica Bertman.(Court Reporter: K. Metzger) (Interpreter:No) Deft continued on Bond, filed.(leddins, 4) (Entered: 09/03/2014)
09/08/2014	<u>226</u>	NOTICE OF ATTORNEY APPEARANCE: Michael W McCrum appearing for Abraham Moses Fisch , filed.(McCrum, Michael) (Entered: 09/08/2014)
09/08/2014	227	Minute entry for proceedings before the Hon. Lee H. Rosenthal. Status conference held on September 8, 2014. Mr. Fisch appeared with his lawyer, Mr. Michael W.



		McCrum. A trial date was set for April 20, 2015. A final pretrial conference will be held on April 10, 2015, at 8:30 a.m. in Courtroom 11-B. Interim pretrial conferences will be held on October 24, 2014, January 23, 2015; and March 6, 2015, all at 8:30 a.m. in Courtroom 11-B. The court will issue a scheduling order. Appearances: Jim Buchanan-AUSA (for Robb Johnson/John Pearson) and Michael McCrum for Deft. Fisch/Regina Criswell(by phone) for Deft. Bertman.(Court Reporter: K. Metzger) (Interpreter:No) Deft continued on Bond, filed.(leddins, 4) (Entered: 09/10/2014)
09/12/2014	<u>228</u>	ORDER TO CONTINUE entered in the Interest of Justice as to Abraham Moses Fisch, Monica Bertman : GRANTING Deft.s oral motin to continue: Deadlines amended as follows: Dispositive Motion Filing due by 12/1/2014. Non-Dispositive Motion Filing due by 12/1/2014. Responses due by 12/15/2014. Interim Pretrial Conference set for 10/24/2014 at 08:30 AM ; Second Interim Pretrial Conference set for 1/23/2015 at 08:30 AM ; Third Interim Pretrial Conference set for 3/6/2015 at 08:30 AM ;Final Pretrial Conference set for 4/10/2015 at 08:30 AM ; and Jury Trial reset for 4/20/2015 at 09:00 AM in Courtroom 11B before Judge Lee H Rosenthal (Signed by Judge Lee H Rosenthal) Parties notified. (leddins, 4) (Entered: 09/12/2014)

PACER Service Center			
Transaction Receipt			
09/21/2014 14:51:20			
PACER Login:	db0592:2533043:0	Client Code:	
Description:	Docket Report	Search Criteria:	4:11-cr-00722
Billable Pages:	19	Cost:	1.90





EXHIBIT 3

Order Dated 9/12/2014 (DOC #228)

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

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VS.

CRIMINAL NO. H-11-722

ABRAHAM MOSES FISCH
MONICA BERTMAN

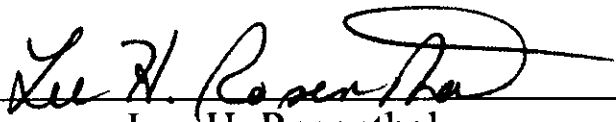
ORDER

The court held a status hearing in this case on September 8, 2014. Defendant Abraham Fisch appeared with new counsel. Counsel advised that based on conflicts and the need to prepare for this case he orally requested a continuance. The court finds that the interests of justice are served by granting this continuance and that those interests outweigh the interests of the public and the defendants in a speedy trial. The motion for continuance is GRANTED. The docket control order is amended as follows:

The court resets the following deadlines:

Motions are to be filed by:	December 1, 2014
Responses are to be filed by:	December 15 2014
Interim Pretrial conference is set for:	October 24, 2014 at 8:30 a.m.
Second Interim Pretrial Conference is set:	January 23, 2015 at 8:30 a.m.
Third Interim Pretrial Conference is set for:	March 6, 2015 at 8:30 a.m.
Final Pretrial Conference is set for:	April 10, 2015 at 8:30 a.m.
Jury trial and selection are reset to:	April 20, 2015 at 9:00 a.m.

SIGNED on September 12, 2014, at Houston, Texas.



 Lee H. Rosenthal
 United States District Judge

