

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 17-CR-160

RONALD H. VAN DEN HEUVEL,

Defendant.

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**RESPONSE TO DEFENDANT'S MOTION TO DISMISS COUNSEL**

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The United States of America, by and through its attorneys, Matthew D. Krueger, United States Attorney for the Eastern District of Wisconsin, Adam H. Ptashkin, Assistant United States Attorney, and BeLinda I. Mathie, Special Assistant United States Attorney for said district, respectfully responds to the defendant's Ronald Van Den Heuvel's Notice of Motion and Motion to Dismiss the Use of Defendant's Court Appointed Counsel (Doc. 56) and the accompanying Memorandum of Law (Doc. 57). The United States defers to the Court regarding Van Den Heuvel's relationship with his court-appointed counsel. The United States submits this response, however, to clarify the record and emphasize the need to avoid delay in bringing resolution to the numerous victims of defendant's \$9 million fraud scheme.

Van Den Heuvel has been appointed counsel based upon his purported indigence. His current counsel Robert LeBell represented him in an earlier criminal case, No. 16-CR-64, beginning in August 2016. *See* No. 16-CR-64 (Text order of Aug. 9, 2016). Although LeBell moved to withdraw as counsel shortly before sentencing in that case, No. 16-CR-64, Doc. 180, LeBell continued to represent Van Den Heuvel during sentencing, and the Court eventually denied his motion to withdraw. *See* No. 16-CR-64, Doc. 183. LeBell has represented Van Den Heuvel

in this case since it was indicted on September 19, 2017. LeBell has received the discovery and has now had ten months to work with Van Den Heuvel in preparing for trial. Only since being detained on July 6, 2018, pending trial has Van Den Heuvel expressed dissatisfaction with LeBell's representation.

The United States is concerned that the real motivation behind defendant's Motion is to delay the trial and seek release from detention. *See* Doc. 56, at 7-8 ("Defendant prays that his honorable Court allows his release . . ."). Indeed, in a recent call made from the Brown County Jail, Van Den Heuvel indicated he wants to seek his release pending trial when he told an associate that ". . . I need that thing so bad that I got a couple, a couple people think that it'll get me 12-14 weeks out of here." *See* Exhibit A. A change of counsel would potentially result in a delay as new trial counsel would likely request additional time to review the discovery. Yet, for the reasons stated at the Court's July 6, 2018 hearing, the defendant should remain detained pending trial. And to bring resolution to this matter, the United States requests that the Court maintain the currently scheduled trial date.

In the alternative, the United States requests that the Court act quickly to resolve Van Den Heuvel's pending motion so that the United States can plan its trial preparations. Because Van Den Heuvel's scheme spanned over four years and ensnared numerous victims, the trial is expected to involve a large number of witnesses, many of whom will have to travel from other States and, in a few instances, other countries. Preparing for this type of trial requires certainty in the trial dates.

The United States also briefly responds here to several issues raised in Van Den Heuvel's pro se filings. The filings are filled with baseless allegations of wrongdoing, such as a claim that the United States has withheld or altered exculpatory evidence. Doc. 57, at 2. This accusation is

false. The United States has and will continue to abide by all of its discovery obligations. Tellingly, Van Den Heuvel has failed to identify the allegedly exculpatory material that he claims was altered or withheld.

Much of Van Den Heuvel's Memorandum refers to documents that he says are located at 2077 A & B Lawrence Drive in De Pere. *See* Doc. 57, at 2-5. Although it is not entirely clear what documents Van Den Heuvel is referring to, the United States offers this background, which was also explained in Case No. 16-CR-64, Doc. 48 (Aug. 30, 2016). In July 2015, the Brown County Sheriff's Office ("BCSO") executed search warrants on Van Den Heuvel's business locations and residence. The supporting affidavits provided probable cause to believe Van Den Heuvel was fraudulently representing his Green Box business plan to induce loans and investments that he used for other purposes. The affidavits established probable cause to find that Van Den Heuvel's scheme spanned a large number of business entities, victims, vendors, and recipients of misappropriated funds. Consequently, the BCSO seized a large volume of hard copy materials and electronic devices. The BCSO subsequently gave federal law enforcement agents access to the seized material in connection with the parallel federal investigation that gave rise to this case.

Federal law enforcement agents reviewed the seized materials to determine which documents may have evidentiary value for a federal prosecution. The Federal Bureau of Investigation ("FBI") retained those documents, scanned them, and produced digital copies for the defense to review in a Relativity database in both Case No. 16-CR-64 and in this case. The retained documents total approximately 315,000 pages. The balance of the seized materials were returned in their original hard copy format to Van Den Heuvel in August 2016. Those returned documents appear to be the focus of Van Den Heuvel's Memorandum—documents that Van Den Heuvel created originally, that he has had access to again for the last two years, and that the United States

will not use in its prosecution. Given all that, Van Den Heuvel's claim that his court-appointed counsel should spend more time with those documents seems misguided.

Respectfully submitted this 31st day of July, 2018.

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**U.S. Exhibit A**

**Transcript of a Jail Telephone Call of the Defendant**

Calling Party: Ron Van Den Heuvel ("RVDH"), BCSO Inmate # 930000020204

Called Party: M.G.

Call #: 8127338

Date: Tuesday, July 17, 2018

Time: 2:35 p.m.

Transcript By: FBI SA T. Ryan Austin

[Automated Recording]

(0:57)

RVDH: Hey, [First name redacted].

M.G.: Hey.

RVDH: Did you get out of court?

M.G.: Yeah, I did. I sat there for about four and a half hours. [feedback]

RVDH: You what?

M.G.: I sat there for about four and a half hours this morning.

RVDH: Unbelievable.

M.G.: Yep...

RVDH: How long...how long were you on the stand?

M.G.: Actually that's the best part. They never even called me in.

RVDH: They never even called you in?

M.G.: Yeah, wasted my fucking time.

RVDH: Wow. Was it for a buddy?

M.G.: Yeah, it was for a really good friend, I used to live with him and his ex, his daughter's mom. So, anyway.

RVDH: Oh. How'd he...how did he fare, okay? Hey, can I put you in charge of one thing? Ty.

M.G.: What's up?

RVDH: Ty. Just get him here once in the morn - even if his dad brings him – get him here once in the morning and once in the afternoon. Gotta have him here [inaudible], I gotta get him here twice a day. Did you get a chance to go through any of them lists yet or work with Kelly? Not today because you were in court, ay?

(2:05)

M.G.: Ah, no, actually I talked to them a little bit...ah, is there echoing on your end?

RVDH: You what?

M.G.: Is my...is me talking echoing on your end?

RVDH: Go, go slower. Yes, this is being recorded. Yes.

M.G.: No. Is it recording? My voice. Is it, or um, sorry, is it echoing?

RVDH: No, no. No, it's not.

M.G.: Okay. It is on my end, so I'll do my best.

RVDH: Okay.

M.G.: I'll talk to Ty and Kelly.

RVDH: Yeah.

M.G.: I'm helping them with the legal document you're doing.

RVDH: Yeah, good.

M.G.: We have a question on that.

RVDH: Okay.

M.G.: So there's two separate documents.

RVDH: Yep.

M.G.: One is the memorandum.

RVDH: Yep.

M.G.: And one is the motion.

RVDH: Yep.

M.G.: Now we're looking at this, is the memorandum just that one page?

(2:57)

RVDH: It's just that one page. Make it be two. You'll have the case number in on it, you'll have all the things you gotta do. It'll end up, maybe, being three. But that's

it. And then the memorandum follows right behind it with case number and everything there also. Okay?

M.G.: Yeah, they were a little confused, ah, but that makes total sense. That clears it up.

RVDH: The memorandum will be about 19 paragraphs. Okay?

M.G.: Okay.

RVDH: And the page 1 is just the reason for what we're doing and now remember we're not...we're dismissing LeBell from being a court-appointed attorney. Okay? We're not dismissing him from, from the case but he will not be lead counsel. Okay?

M.G.: Okay. Uh, the other thing is, I talked to Don...

RVDH: Yeah.

M.G.: And he said at three o'clock he's calling you to try to do a conference call.

RVDH: Oh, good. Good, good, good. Good, good. Thank you. That's what I needed to know. Okay?

M.G.: Okay. Ty's been visiting you, right? I thought he's been coming there two or three times a day.

RVDH: He, he has. He has. It's just I want him to, I want him to be predictable and have it now. He says he's not coming up; he can come up til eight o'clock at night. So, he says he's not coming up until Kelly and you get done with that back (?). That would be good though. Okay?

M.G.: Yeah. Because I figure you'd...they said you needed that by tomorrow.

(4:24)

RVDH: I need, I need that, I need that thing so bad that I got a couple, a couple people think that it'll get me 12-14 weeks out of here. So...

M.G.: Oh, wow.

RVDH: Yep.

M.G.: Yeah, their delay was just the confusion between the two but that clears it up.

RVDH: Okay. Go ahead and get her done. Thank you, pal.

M.G.: Yeah; talk to you later.

RVDH: Bye.