

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

v.

EVIDENTIARY HEARING

RONALD H. VAN DEN HEUVEL

Case No. 17-CR-160

HONORABLE WILLIAM C. GRIESBACH presiding
Proceeding Held: September 4, 2018
Deputy Clerk: Lori

Time Called: 9:38 am
Time Concluded: 4:44 pm
Tape: 090418

Appearances:

UNITED STATES OF AMERICA by: Matthew Krueger and Adam H. Ptashkim
Ryan Austin, FBI Agent
RONALD H. VAN DEN HEUVEL, in person and by: Robert LeBell and Eric Hart
US PROBATION OFFICE by:
INTERPRETER: None ☐ Interpreter Sworn

9:41 am This is a continuation of the Motion Hearing that was held in on 8/11/17 in 16-CR-64 on 8/11/2017.
Pro Se Motion for dismissal of court appointed counsel addressed.
Defendant informs the Court he wishes to represent himself.
Defendant, Ronald H. Van Den Heuvel, sworn by the clerk, the Court proceeds with the colloquy.
Basis for fraud case and defendant's argument briefly summarized.

9:55 am Defendant requests stand-by counsel, informs the Court he has 65 witnesses he intends to call at trial.

9:57 am The Court will advise the Brown County Sheriff's office to make witnesses more available to Defendant at the jail.
Defendant advises he has additional financial documents to provide to the government.

9:59 am The Court inquires if defendant still wishes to dismiss appointed counsel and proceed pro se.
Defendant discusses \$15,000.00 payment for legal firm to assist with case.
The Court questioned the Defendant regarding the \$15,000.00 payment.
Defendant responds.

10:04 am Stand-by counsel duties discussed.

10:06 am Defendant states he does not want an attorney.
Mr. Krueger requests the Court address the Defendant's health concerns.
Defendant sets forth health issues.

10:08 am The Court will file under seal the response from the Brown County Health Services Unit.
The Court reads portion of report from the Brown County Health Services.

10:14 am The marshal service will advise the Bureau of Prisons of Defendant's health concerns.

10:15 am Defendant confirms that he wishes to represent himself.
Mr. LeBell responds and addresses parameters if appointed as stand by counsel.

Mr. Krueger responds.

10:16 am The Court FINDS that Mr. Van Den Huevel has knowingly and voluntarily given up his right to have an attorney represent him.

10:21 am Further inquiry as to competence, mental alertness and competence to make the decision to represent himself.
The Court notes the record is to reflect that his wife is shaking her head no in the back of the Courtroom. The Court inquires as to any question of competence.
Mr. Krueger requests further questioning, not a formal evaluation.
Mr. LeBell responds that both criteria are satisfied.
Mr. Krueger responds, does not see need for further evaluation.
The Court inquires as to blood sugar levels and documentation.
Mr. LeBell responds.

10:24 am The Court is satisfied that defendant is not suffering from any mental incompetence or impairment. The Court finds that Defendant has freely and voluntarily waived his right to have counsel represent him and ACCEPTS his waiver of right to counsel.
Mr. LeBell is to supplement record with any evidence of Defendant's physical condition today.

10:25 am Motion to remove Mr. LeBell as legal counsel is GRANTED.
The Court would like Mr. LeBell to remain on this case as stand-by counsel.
The Court will enter an order clarifying the responsibilities of stand-by counsel.

10:26 am The Court takes a recess.

10:44 am The Court resumes.
The Court DENIES Defendant's [75] Motion for change of venue at this time.

10:50 am Mr. Ptashkin responds to Defendant's claims as to Ms. Shartner's affidavit.
Mr. Ptashkin requests motion for franks hearing to be denied.
Defendant responds.
The Court refers to page 11 of the search warrant.

10:59 am Continuation of cross-examination as to **Mary Schartner** testimony, witness sworn and testifies under cross-examination by Defendant Ronald D. Van Den Heuvel.
Exhibit 1029 marked.

11:11 Exhibit 1030 marked.
Question as to Exhibit 7 (previously received)

11:14 am Reference to Exhibit 8 (previously received)

11:16 am Mr. Krueger objects, compound - Sustained.
Mr. Krueger objects, foundation. Defendant directed to move on.

11:21 am Mr. Krueger objects, foundation. Defendant instructed to rephrase the question.
Mr. Krueger objects, foundation.

11:23 am Exhibit 1029 held up by Defendant.
Exhibit 1031 marked.
Objection, calls for speculation. Sustained.

11:29 am Objection, foundation.
The Court addresses execution of the warrant.

11:30 am Mr. Krueger responds.
Exhibit #3, Search Warrant of residence handed to witness.
Objection, speculation. Sustained.
Objection, asked and answered and calls for speculation.
Witness answers.
Defendant instructed to move on.
Objection, foundation. Sustained.

11:41 am Objection, foundation. Sustained.

11:48 am Exhibit 1032 marked.
Objection, relevance, no date on document.
Defendant questions witness as to Exhibit 1032.

11:53 am	<p>The Court questions the witness.</p> <p>Objection, argumentative. Sustained.</p> <p>Objection, foundation. Sustained.</p> <p>3060 South Ridge Road addressed in testimony.</p> <p>Exhibit #1033 marked.</p> <p>Objection, foundation. Overruled.</p> <p>The Court questions the witness.</p> <p>Objection, speculation. Sustained.</p> <p>Objection, vague. SUSTAINED.</p>
11:59 am	The Court recesses.
1:05 pm	<p>The Court resumes.</p> <p>The record should reflect this is continued cross-examination of Mr. LeBell's cross examination of Ms. Schartner from the 8/11/18 Evidentiary hearing in 16-CR-64.</p>
1:06 pm	<p>Re-direct by Mr. Krueger</p> <p>Reference to Exhibits 7, 8 and 9.</p>
1:11 pm	Objection by Defendant, how would she know. Overruled.
1:14 pm	Re-cross by Defendant.
1:20 pm	<p>Objection, foundation. Overruled.</p> <p>Objection, argumentative. Sustained.</p>
1:27 pm	<p>The Court questions witness.</p> <p>Reference to Assistant DA Karen Behling and Bryant Dorsey.</p> <p>The Court inquires as to date of assignment of case, (early 2015).</p>
1:36 pm	<p>The Court inquires if any other warrants were sought to search the computers.</p> <p>The Court inquires as to standards of evidentiary value as to search documents, forensic capabilities and retention of documents.</p>
1:43 pm	<p>The Court inquires as to "op" meeting and "op order".</p> <p>Witness states the "op order" was created by Lt. Jim Valley.</p>
1:45 pm	<p>Mr. LeBell responds.</p> <p>Mr. Krueger states it was provided in discovery in the bank fraud case last year and has not been introduced as evidence here.</p> <p>The Court questions witness as to the operation order.</p>
1:46 pm	<p>Mr. Krueger provides a copy of "op order" to defendant for review.</p> <p>Defendant marks Exhibit 1034 (Email from Ms. Schartner)</p>
1:53 pm	Objection, relevance. Defendant responds.
1:58 pm	Mr. Krueger responds.
2:00 pm	<p>Objection, relevance. Sustained.</p> <p>Objection, relevance. Defendant responds.</p> <p>Objection, clarification as to what individuals were talked about.</p> <p>Defendant rephrases question.</p>
2:04 pm	The Court questions witness.
2:08 pm	<p>Objection, testifying.</p> <p>Objection, relevance. Overruled.</p>
2:11 pm	<p>Re-direct by Mr. Krueger.</p> <p>Witness excused.</p> <p>The government calls <u>Special Agent, Timothy Ryan Austin</u>, sworn and testifies under direct examination by Mr. Krueger.</p> <p>The Court sets forth the witness is married to Katina Austin, a pro se staff attorney in Milwaukee. The Court has not spoken with Katina Austin about this case and does not have day to day contact with Ms. Austin.</p>
2:29 pm	<p>Cross-examination by Defendant. Reference to Exhibit 1029.</p> <p>Mr. Krueger asks to question witness as to Exhibit 1029.</p>

Mr. Krueger represents the document was created by US Attorney's office (description of materials retained by FBI and provided in Relativity-index of what was produced in discovery)
Mr. Van Den Heuvel responds this was inventory of what was returned to him.

2:36 pm The Witness supports Mr. Krueger's explanation.
Discussion as to Exhibit 1029.
Cross-examination by Defendant. Sarah Hagar referenced.
Objection, relevance. Sustained.
The Court rules questioning is beyond the scope of the motions.
Objection, foundation. Sustained.
Exhibit marked as 1035.
Discussion as to discovery documents, exhibits and protective order.
Objection, testifying.

2:49 pm (off record conversation)

2:50 pm Defendant WITHDRAWS Exhibits 1035 and 1036. Granted.

2:52 pm Mr. Krueger re-direct.
Witness excused

2:53 pm Court recesses.

3:22 pm Court resumes
The government rests.
Defendant calls **Ty Willihnganz**, sworn and testifies under direct.
Cross-examination by Mr. Krueger.
Mr. Krueger marks and offers Exhibit 21 Plea Agreement for Ty Willihnganz in 11CR296.
Re-direct by Defendant.
The Court questions defendant.
Mr. Krueger questions witness as to picking up materials from the Brown County Sheriff's Dept.
Witness is excused.

3:47 pm Mr. Van Den Heuvel calls **Edward Kolasinski**, sworn and testifies under direct examination by Defendant.
Objection by Mr. Ptaskhim, relevance.
The Court questions witness.
Reference to Exhibit 1030.
Witness is excused.
The Court addresses comments of Defendant.

3:58 pm Defendant calls **Michael Garsow**, sworn and testifies under direct examination by Defendant.
Examination 1030 received.

4:01 pm Cross examination by Mr. Ptaskhim.
Objection by Mr. Van Den Huevel, 4,000,000 pages. Question rephrased.
Exhibit 22 marked, Affidavit of Michael Garsow.
Re-direct by Mr. Van Den Heuvel.
The Court questions witness. Witness excused.
Defendant, Ronald Van Den Heuvel is sworn and testifies.

4:13 pm Mr. LeBell requests to speak to defendant.
Mr. Van Den Huevel offers testimony.
Cross-examination by Mr. Krueger.
The Court questions defendant.

4:24 pm Mr. LeBell moves to strike all,
The Court addresses scope of hearing.
Mr. Krueger responds.
Exhibit 16, Box Index -
Mr. Van Den Heuvel clarifies as to financial information request.
Mr. Krueger responds regarding information request from the Financial Litigation Unit about restitution follow-up.

Witness excused.

The Court instructs the parties to submit a 1 - 2 page briefing argument by the end of the week and a decision will be issued.

The Court inquires if Defendant would like to reconsider his Motion to dismiss court appointed counsel. Defendant WITHDRAWS his Motion to dismiss court appointed counsel. GRANTED. Mr. LeBell is re-appointed as counsel of record for Defendant.

The Court informs the parties that Pretrial Services/Probation Department was contacted to look into the possibility of the Bureau of Prisons relocating the Defendant.

The Court confirms the reappointment of counsel includes Mr. Hart.

Mr. LeBell moves to admit Exhibits offered on 8/11/18 as 1008, 1009, 1011, 1012, 1013, 1014, 1015, 1016, 1021, 1025 and 1028. No objections. RECEIVED.

Mr. LeBell moves to admit Defendant's Exhibits from today except for the two withdrawn exhibits (1035 and 1036). Counsel moves to admit Exhibits 1029, 1030, 1031, 1032. Mr. Krueger objects to 1029 (no foundation), 1031-1033 no foundation to admit.

Mr. Krueger moves to admit 16, RECEIVED.

The Court questioned Defendant as to Exhibits 1031 and 1032. No objections.

Mr. Krueger responds regarding dates and origination of exhibits.

Exhibit 1029 is NOT received into evidence. The clerk is directed to keep 1029 for the file.

Exhibits 1031-1034 are RECEIVED.

Adjourn.