

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 ) No. 08 CR 888  
 v. ) Hon. James B. Zagel  
 )  
 ROD BLAGOJEVICH )  
 ALONZO MONK )  
 WILLIAM F. CELLINI, SR. )  
 JOHN HARRIS, and )  
 ROBERT BLAGOJEVICH )  
 )

**AGREED MOTION FOR SEVERANCE**

The United States, by and through PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully moves this Court to sever the counts in the superseding indictment in this case charging William F. Cellini, Sr. from the counts charging Rod Blagojevich and Robert Blagojevich, and states as follows:

1. On October 30, 2008, the grand jury returned an indictment against William Cellini, charging him with counts of conspiracy to commit mail/wire fraud (Count One), conspiracy to commit extortion (Count Two), attempted extortion (Count Three), and solicitation of funds (Count Four).

2. On April 2, 2009, the grand jury returned a superseding indictment in this case which added charges against Rod Blagojevich, Christopher Kelly, Alonzo Monk, John Harris, and Robert Blagojevich to the existing indictment against Cellini. The first three counts of the original indictment against Cellini were re-alleged as Counts Thirteen, Fourteen, and Fifteen in the superseding indictment, and Kelly was added as a defendant in those three counts as well as

Count One of the superseding indictment. Cellini and others were also named as conspirators, but not charged, in the racketeering conspiracy alleged in Count One against Rod Blagojevich and Kelly. Cellini and Kelly were also named as participants, but not charged, in the mail/wire fraud scheme alleged in Count Two against Rod Blagojevich, Monk, Harris, and Robert Blagojevich.

3. Monk and Harris have now pleaded guilty to the sole count in the superseding indictment against each of them. Kelly has passed away and the government has dismissed the charges against him. As a result, the three remaining defendants in the case are Cellini, Rod Blagojevich, and Robert Blagojevich, and Cellini is not charged in any count with either Rod Blagojevich or Robert Blagojevich.

4. Counsel for Cellini has indicated that they believe that the counts in the superseding indictment charging Cellini (e.g., Counts Thirteen, Fourteen, and Fifteen) should be severed from the remaining counts charging Rod Blagojevich and/or Robert Blagojevich pursuant to Federal Rules of Criminal Procedure (“Rule”) 8 and 14. It was, and is, the government’s view that joinder was proper under Rule 8. The government also believed that a joint trial of all six defendants would be proper under Rule 14. At earlier status hearings, the Court has indicated that it would address severance issues at a later time.

5. Following the guilty pleas of Harris and Monk, and in light of the unexpected death of Kelly, the government now agrees that a severance is warranted pursuant to Rule 14. In particular, it was the allegations and evidence against Kelly that provided much of the rationale to keep the defendants together in one trial. As the government no longer needs to prove the allegations against Kelly, who was integrally involved in the activities underlying the charges

against both Cellini and Rod Blagojevich, there is now significantly less overlap in the evidence that the government anticipates would be introduced against Rod Blagojevich and Cellini. Accordingly, the government now agrees that the risk that Cellini would be prejudiced in a joint trial with Rod Blagojevich and Rob Blagojevich outweighs the cost of providing Cellini with a separate trial.

6. Counsel for Cellini and the government jointly request that if the Court severs the counts against Cellini, the trial for Cellini be scheduled after the trial of Rod Blagojevich and Robert Blagojevich. Counsel for Cellini and the government would both be available in November 2010 for trial.

WHEREFORE, for the reasons stated above, the government respectfully asks that the Court sever the counts against William Cellini, namely Counts Thirteen, Fourteen, and Fifteen of the superseding indictment, from the remaining counts of the superseding indictment for purposes of these proceedings, including trial, and re-schedule the trial of William Cellini until November 2010, or at least until after the trial of Rod Blagojevich and Robert Blagojevich.

Respectfully submitted,

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