

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA ;
Plaintiff ; Criminal No. 2:08-M-6513
v. ; Citation Nos. F3690801; F 3690803; F 3690804
DALE ROBERT KELLOGG, ; **DEFENDANT'S RESPONSE OPPOSING**
Defendant ; **COUNSEL'S MOTION TO WITHDRAW,**
OR ALTERNATIVELY, REQUESTING
APPOINTMENT OF NEW COUNSEL

Now comes the Defendant, Dale Robert Kellogg, in response to the Motion of attorney Ron M. Kopriva for leave to withdraw as defense counsel, and states as follows:

1. Mr. Kopriva is my court-appointed attorney; I truly have no resources to hire an attorney on my own, and deny the allegation that I discharged him by phone on August 28, 2009. Hoping to clear up the misunderstandings, I have since called his office without reaching him, then learned that he filed his motion for leave to withdraw right away, before I could speak to him and resolve matters. I received notice of his motion by mail on September 2, 2009.
2. At the same time, there have been problems with Kopriva's representation, and since his appointment over a year ago, my counsel has not given my case much time. Early on I asked that he request discovery on essential materials held by the government, which would exonerate me if they could be recovered, but this was never done. For many months he has taken no action in defense, assuring me that it was best to wait, and the charges would eventually be dropped.
3. On my own I have tracked down two videos and four witness affidavits that prove my innocence, and with outside help these materials were provided to counsel by around March 2009. They could assist in preparing for trial, if it came to that, but the immediate purpose was

to use them to push the U.S. Attorney for early dismissal, or otherwise to file them with a pre-trial Motion to Dismiss, and make a record of these facts. My counsel is in possession of these items and maybe other exculpatory evidence, but to my knowledge has done nothing to use them on my behalf.

4. On August 28 I received a proposed "Agreement for Pretrial Diversion", with some alarm: My counsel is trying to force me into a plea agreement that is contrary to the truth. I realize that I could simply sign the papers and end this matter, and have no doubt of my ability to comply with the stated probation terms. However it also has unfair conditions, excludes one charge for unknown reasons, and bears vague threat of further prosecution and court sanctions for crimes I did not commit. I have valid defenses in this case, but they have not been raised, and the only option my counsel now proposes is a plea agreement that is false and unacceptable.

At the heart of it, as a man of principle I cannot admit guilt and agree to a criminal charge in contradiction to the facts. However at this stage it is more important that counsel remain in this case which has come so far, with a just settlement, or outright dismissal, still possibly close at hand, and trial set less than four weeks away. Unless I can seek pre-trial relief or have my day in court with the proper assistance of counsel, as constitutionally required, I have no chance to prove my innocence.

Wherefore, Defendant asks this court to require Mr. Kopriva to finish the work he started or if Mr. Kopriva is unwilling or unable to do so, that the Court appoint another attorney willing to undertake the protection of my constitutional right to a trial.

Respectfully submitted,

Dale Robert Kellogg, Defendant

Certificate of Service

I served a copy of the foregoing Response upon my Attorney Ron Kopriva, 209 Main Street, Lander, WY 82520 and Assistant US Attorney Jason M. Condor, P.O. Box 449, Lander, WY 82520-0449 by regular mail this _____ day of August, 2009.

Respectfully submitted,

Dale Robert Kellogg, Defendant