

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal No. 2016-54
	)	
TOYNE JACKSON,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

ATTORNEYS:

Ronald Sharpe, United States Attorney
Meredith Jean Edwards, AUSA
United States Attorney's Office
St. Thomas, U.S.V.I.
For the United States of America,

Omodare Jupiter, FPD
Kia Danielle Sears, AAFP
Office of the Federal Public Defender
St. Thomas, U.S.V.I.
For Toyne Jackson.

ORDER

GÓMEZ, J.

Before the Court is the motion of Toyne Jackson ("Jackson") to suppress evidence.

On December 13, 2016, the United States filed an Information in Criminal Case Number 16-54 charging Jackson with one count of possession with intent to distribute marijuana in

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violation of 21 U.S.C. § 841. Jackson was arraigned on the Information on December 21, 2016. On that date, the Magistrate Judge entered a scheduling order setting a motions deadline of January 9, 2017, an omnibus hearing for January 30, 2017, and a trial for February 6, 2017.

Subsequently, on January 12, 2017, Jackson was indicted in Criminal Case Number 17-4. The Indictment charged Jackson with one count of possession with intent to distribute marijuana in violation of 21 U.S.C. § 841. The criminal conduct charged in the Indictment was identical to that charged in the Information. Jackson was arraigned on the Indictment on January 18, 2017. On that date, the Magistrate Judge entered a scheduling order setting a motions deadline of February 6, 2017, an omnibus hearing for February 27, 2017, and a trial for March 6, 2017.

On January 20, 2017, the Court ordered the Clerk of Court to (1) docket the Indictment in Criminal Case Number 17-4 in Criminal Case Number 16-54; and (2) close Criminal Case Number 17-4. On February 1, 2017, the Magistrate Judge entered an order clarifying that "[t]he trial on the charges in the Indictment . . . , which are identical to the charges in the Information . . . , shall take place on February 6, 2017." ECF No. 22.

Thereafter, on February 2, 2016, Jackson moved to "maintain the dates given at her arraignment on January 18, 2017, and

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reinstate the motions filing deadline of February 6, 2017, omnibus hearing date of February 27, 2017, and trial date of March 6, 2017.” ECF No. 29 at ¶9. On February 3, 2017, the Court granted Jackson’s motion in part, rescheduling her trial to commence on February 27, 2017.

On February 8, 2017, two days after the motions deadline associated with the Indictment had passed, Jackson filed a motion to suppress evidence.

Federal Rule of Criminal Procedure 12(b)(3) (“Rule 12”) provides that motions to suppress evidence must be filed before trial. See Fed. R. Crim. P. 12(b)(3)(C) (providing that “defenses, objections, and requests” for the “suppression of evidence” “must be raised by pretrial motion if the basis for the motion is then reasonably available and the motion can be determined without a trial on the merits”). Rule 12 grants trial courts the discretion “to set a deadline for the parties to make pretrial motions.” See Fed. R. Crim. P. 12(c)(1).

“If a party does not meet the deadline for making a Rule 12(b)(3) motion, the motion is untimely.” Fed. R. Crim. P. 12(c)(3). Nevertheless, a court may still consider an untimely pretrial motion “if the party shows good cause.” *Id.*; see also *United States v. Staton*, 605 Fed. App’x 110, 113 (3d Cir. 2015) (“‘If a party does not meet the deadline for making a motion to

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suppress, the motion is untimely,' and deemed waived absent a showing of 'good cause' for the delay." (alteration omitted) (quoting *United States v. Rose*, 538 F.3d 175, 181 (3d Cir. 2008)).

The premises considered; it is hereby

ORDERED that, no later than 3:00 P.M. on February 13, 2017, Jackson shall show cause why her motion to suppress is not waived for failure to comply with the Court's February 6, 2017, motions deadline.

s\ _____
CURTIS V. GÓMEZ
District Judge