

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 08 CR 846
vs.)	Judge Joan H. Lefkow
)	
JON BURGE)	

**GOVERNMENT’S MEMORANDUM OF LAW
REGARDING VICTIM WITNESS NOTIFICATION**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, files this memorandum to explain issues regarding the government’s victim notification process:

Background

During a lengthy status hearing on Thursday, April 8, 2010, defense counsel raised concerns regarding a victim notification letter that was sent to Jackie Wilson at the Stateville Correctional Center (attached as Exhibit 1, with redactions). Defense counsel suggested that the government was privy to this Court’s decision making process as to whether it would grant a continuance in this matter. In the form letter, Mr. Wilson is informed that the trial in this matter “has been reschedule by the court.” The letter proceeds: “a trial is scheduled before Judge Joan Lefkow on May 6, 2010 . . .” [providing the location of the trial], and then in the following paragraph states, “a trial is scheduled before Judge Joan Lefkow on May 10, 2010,” [followed by similar language as to the trial’s location]. The letter is dated March 12, 2010.

The letter does not contain a reference to this Court's most recent order, granting a short continuance of the trial date. *See* R. 175.¹

Analysis

Under the Victim and Witness Protection Act of 1982, and the Crime Control Act of 1990, the Department of Justice and its components are obligated to keep victims of criminal conduct being prosecuted by the Department of Justice apprised of the general status of the charged cases. *See generally* 42 U.S.C. §10607. To meet this overall goal, the department has established an automated system that sends notices to identified victims based on information generated through the Case Management / Electronic Case Files ("CM/ECF"). *See* Memorandum, James C. Duff, Director, Administrative Office of the United States Court, dated Sept. 11, 2008.

After reviewing the docket in this matter, consulting with the official responsible for victim notification in the U.S. Attorney's Office, Northern District of Illinois, and reviewing the attached letter, it appears that Mr. Wilson was provided a standardized letter advising him of this Court's entries as to the trial date *up to the date* his name was entered into the victim notification system² – thus explaining Mr. Wilson receiving notification that the trial date had been moved to May 6, 2010, and to May 10, 2010 in

¹ Reference to the record are denoted by "R.," followed by the relevant docket number.

² Mr. Wilson, and others, were entered into the victim notification system in February and March 2010.

the same letter. *See* R. 146 (setting trial date as May 10, 2010), and R. 154 (setting trial date as May 6, 2010).

Significantly, there is no mention in the letter dated *March 13, 2010* of this Court's order from April 1 2010, granting a short continuance, to May 24, 2010. *See* R. 175.

As government counsel suggested to this Court, the enclosed letter is a form letter that was generated for Mr. Wilson and other similarly situated individuals. The government's form letter does not contain any reference to any *future* rulings by this Court, and does not substantiate any suggestion that the government was privy to an advanced ruling by this Court.

For the reasons noted above, the government does not believe that any further litigation need be conducted on this issue.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: /s/M. David Weisman
M. David Weisman
Assistant United States Attorney
(312) 353-2119

Date: April 14, 2010.