

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

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OCT 28 2002  
DEPUTY CLERK U.S. DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA

UNITED STATES OF AMERICA, :

v. :

DWIGHT D. YORK, a/k/a  
MALAKAI Z. YORK,  
ISA MUHAMMAD, and  
ISA ALIHAD MAHDI,

Defendant. :

Case No. 5:02-CR-27 (CAR)

**ORDER ON DEFENDANT'S MOTION TO CHANGE VENUE**

Defendant Malakai York has moved this Court to change venue in this criminal action pursuant to Federal Rule of Criminal Procedure 21(a) and (b). The Court **GRANTS** Defendant's Motion as to Fed. R. Crim. P. 21(a) because the Court is satisfied that without changing venue for the trial of this case, Defendant cannot obtain a fair and impartial trial in the Macon Division of the Middle District of Georgia. The Court **DENIES** Defendant's Motion to Change Venue under Fed. R. Crim. P. 21(b) because Defendant has failed to show sufficient issues of convenience to require transfer to another venue.

The Court first notes that the Government has not objected to Defendant's motion. The Court further notes that Defendant has specifically requested that this case be tried in a venue outside of the Middle District of Georgia and in another state. Defendant has not submitted any persuasive evidence or made convincing arguments to show why this case

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should be tried outside the State of Georgia. As a consequence, the case will be tried within the State of Georgia, but not within the Middle District.

In reaching the conclusion about where to try this case, the Court has carefully considered the problem of media saturation and potential bias involving not only the allegations against Malakai York, but also reports about the Nuwaubians because York is the leader of the Nuwaubians. The Court regularly reviews and has reviewed both the Macon Telegraph and the Atlanta Constitution for many years. Over the years the Court has noticed in both newspapers coverage of Defendant's criminal case and articles that reflect unfavorably on the Nuwaubians that could adversely impact Defendant at trial. The Court has grave concerns about trying to select a jury in this case in any division in the Macon and Atlanta media markets.

The Atlanta media market covers not only metropolitan Atlanta but also the other divisions in the Northern District: Gainesville, Rome and Newnan. As a consequence, the Court finds that there is no venue in the Northern District of Georgia suitable for the trial of this case. The Court does not accept defense counsel's argument about trying the case in Atlanta because the greater population density in the Atlanta Division dilutes the media saturation. The Court prefers to find a venue where there has been no media saturation, a location outside the Macon and Atlanta media markets.

Having ruled out all divisions in the Northern District and the Middle District, the Court next considered the Southern District. Because of Augusta's close proximity to both Eatonton and Athens, and because the Court knows there has been media coverage about both Malakai York and the Nuwaubians in the Augusta media market, it was ruled out. The

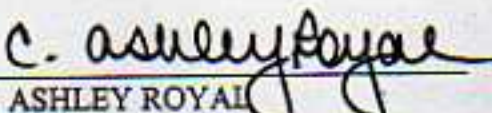
Court then focused on both Savannah and Brunswick and concluded that the Brunswick Division offers the best venue for the trial of this case.

Most important to the Court is the fact that Brunswick is largely outside of the Atlanta media market and that the prevailing media market in Brunswick is the Jacksonville, Florida media market, which the Court knows from the experience of having lived and practiced law in Brunswick. The Court has also done some investigation that disclosed that neither Malakai York nor the Nuwaubians are widely known in the Brunswick area. Moreover, compared to the Savannah Division, the Brunswick Division has a lighter caseload and the trial of a high-profile case there will likely cause less disruption to the overall operation of the court. Moreover, there is ample lodging there for attorneys, witnesses and the Court's staff, unlike Waycross, which the Court also considered.

The Court has further taken into consideration the special security issues involved in this case. The U.S. Marshals have analyzed the courthouse in Brunswick and found the facilities adequate. The Court also has reviewed demographic data on both the Northern and Southern District Divisions and taken it into consideration in this decision.

Based on this assessment and evaluation, this case will be tried in the Brunswick Division of the Southern District of Georgia.

SO ORDERED this 28 day of October, 2003.

  
C. ASHLEY ROYAL  
UNITED STATES DISTRICT JUDGE  
MIDDLE DISTRICT OF GEORGIA

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