

FILED
Clerk
District Court

JAN 12 1996

For The Northern Mariana Islands
By [Signature]
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)
)
 Plaintiff)
)
 v.)
)
 YOON SOO JUNG, et al.,)
)
 Defendants)
)

Criminal No. 95-00024

NOTICE OF ~~ORDERS~~ AND ORDERS
RE DEFENDANT YOON'S PRE-TRIAL
MOTIONS AND DEFENDANT
PANGELINAN'S MOTION TO
JOIN IN YOON'S MOTIONS

THIS MATTER came before the Court on Friday, January 12, 1996, for hearing of defendant Yoon's pre-trial motions 1) to declare the grand jury and petit jury selection process unconstitutional and dismiss the indictment, 2) to dismiss indictment on grounds of multiplicitousness of counts or, in the alternative, to require plaintiff to make an election, 3) to suppress evidence of the search of defendant Yoon's person, 4) for a bill of particulars, 5) for discovery, and, 6) for a hearing prior to trial to determine the admissibility of co-conspirators' statements. Plaintiff appeared by and through its attorneys, Assistant U.S. Attorneys David T. Wood and Frederick J. Kerley; defendant appeared by and through her attorney, G. Anthony Long. Defendant Steven V. Pangelinan's attorney, David Lujan filed a purported joinder in defendant Yoon's motions. Neither Mr. Lujan nor his client appeared for the hearing.

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1 THE COURT, having considered the written and oral argument of counsel, made
2 the following rulings from the bench:

3 Defendant's motion to declare the grand jury and petit jury selection process
4 unconstitutional and dismiss the indictment was DENIED. Supreme Court precedent
5 renders defendant's argument untenable, and the court is not persuaded by her argument
6 that this motion requires an outcome different than precedent because in this jurisdiction
7 the number of U.S. citizens is fewer than the number of resident aliens, thereby making
8 a jury of one's peers impossible unless non-U.S. citizens are included in the jury pool.
9

10 Defendant's motion to suppress evidence of the search of defendant Yoon's person
11 was DENIED. The court found that on the facts and circumstances of this case, the search
12 of defendant Yoon was a "border search" or its functional equivalent, for which no
13 probable cause is required.
14

15 Defendant's motion for a bill of particulars was DENIED. The court found that the
16 information contained in the indictment was sufficient to allow defendant to prepare her
17 defense.
18

19 Defendant's motion for discovery was DENIED, except as specified on the record.
20 Of the eighteen items specified by defendant in her memorandum filed November 29,
21 1995, plaintiff has already disclosed or made available for inspection, in accordance with
22 the discovery rules and case law, items numbered 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 15, 16,
23 and 17. Items numbered 7, 14, and 18 will be disclosed at the time of the filing of
24 plaintiff's witness list; otherwise, the identity of such people is not required to be
25 disclosed by Fed.R.Crim.P. 16. Item 12 is exempt from disclosure. As to item 13, plaintiff
26 has already disclosed such information, or is in the process of obtaining such information

1 for disclosure, in accordance with the court's earlier ruling on the question. Generally,
2 the court found that plaintiff has provided or made available to defendant for inspection
3 all discovery that plaintiff is required by the Federal Rules of Civil Procedure to disclose
4 up to this point in time.

5
6 Defendant's motion for a hearing prior to trial to determine the admissibility of co-
7 conspirators' statements was DENIED. To allow such hearings is a matter of the court's
8 discretion and the court found that it would be an unnecessary duplication of effort to
9 hold such a hearing prior to trial.

10 Defendant's motion to dismiss the indictment on grounds of multiplicitousness of
11 counts or, in the alternative, to require plaintiff to make an election was taken under
12 advisement. After considering further the arguments made by counsel, the motion is
13 DENIED. The Supreme Court in Albernaz v. United States, 450 U.S. 333, 101 S.Ct. 1137
14 (1981), considered and rejected the identical "importation versus distribution" distinction
15 defendant urges upon the court here.

16
17 Defendant Pangelinan's motion to join in all of defendant Yoon's motion was
18 DENIED as untimely and not in compliance with the court's order.

19
20 IT IS SO ORDERED.

21 DATED this 12th day of January, 1996.

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25 
26 ALEX R. MUNSON
Judge