1   IN THE UNITED STATES DISTRICT COURT

2   FOR THE DISTRICT OF MARYLAND/NORTHERN DIVISION

3

4   UNITED STATES OF AMERICA

5   CRIMINAL NO.

6   v.   GLR 13-374

7   REDDY VIJAY ANNAPPAREDDY

8

9   Defendant   June 3, 2016

10   _____/

11   TRANSCRIPT OF MOTIONS HEARING

12   BEFORE THE HONORABLE GEORGE LEVI RUSSELL, III

13   UNITED STATES DISTRICT JUDGE

14   APPEARANCES:

15   On behalf of the United States:

16   Sandra Wilkinson, AUSA

17   Catherine Pascale, Esquire

18

19   On behalf of the defendant:

20   Mark E. Schamel, Esquire
     Joshua Greenberg, Esquire
21

22

23   Reported By:

24   Jacqueline Sovich, RPR, CM, CRR

25   Official Court Reporter

1   a clean state, so to speak, as the Court has pointed out.

2   We're prepared to go to trial on the evidence that we

3   have, and will continue to have as we continue to go down this

4   road, and I just want to thank the Court for the time and

5   attention.

6   I was mindful, I would ask the Court one thing, one

7   of the things the Court had said during the hearing, during the

8   call on May 31st, and we know how much counsel has briefed

9   these issues, and one of which had been that Miss Hammond had

10 somehow done this on purpose and had suggested there was a

11 hidden internal analysis, and, Your Honor, that the Government

12 had put an exhibit before the jury that turns out that was just

13 the wrong exhibit number that they had cited in their brief,

14 and things of that nature.

15   We are conceding to a new trial. It is on the ground

16 the Court identified. We agree that Mr. Annappareddy was

17 denied due process for one reason and one reason only, and

18 that's because the inventory analysis was incorrect. Not

19 intentional. Not false. Not --

20   THE COURT: It was false. It was false.

21   MS. WILKINSON: Well, false.

22   THE COURT: That's an element. So it was a

23 misrepresentation. You know, you can't mince it. She didn't

24 perjure herself, I'm not making that finding, but she put forth

25 false information. It was not true. And that doesn't make it

1   perjury. And I'm not suggesting that she did it intentionally.

2   And an element of the recantation has no mens rea associated

3   with it. It's just simply false.

4   MS. WILKINSON: And you are right. I'm sorry, I

5   didn't mean to say it like that, false meaning equal that it's

6   incorrect. So here we are. And thank you for your time, Your

7   Honor.

8   THE COURT: Sure. Okay.

9   There is a joint motion for new trial that is

10   currently pending. It has been requested by defense counsel

11   that, based upon the pill shortage representations by Miss

12   Hammond, and that alone, a granting of a new trial on a due

13   process ground is appropriate.

14   After receiving pleadings and conducting research in

15   the case, all the parties agree that the witness recantation

16   grounds for granting a new trial is based upon when the Court

17   is reasonably satisfied that the testimony given by the

18   material witness is false, that element has been conceded by

19   the Government as actually having happened.

20   Without the evidence, the jury might have reached a

21   different conclusion. In other words, if you take away all of

22   Miss Hammond's testimony and counsel's ability to argue its

23   significance during the course of the closing, that the jury

24   might have reached a different conclusion, and the parties

25   seeking a new trial was unable to meet it or did not know of

1   its falsity.

2   It's clear, based upon the voluminous pleadings that

3   were filed, including the deposition of trial counsel, Mr.

4   Bonsib, that he did not know of its falsity in this case. And

5   as a result, based upon the precedent established in this

6   circuit, the motion for new trial will be granted.

7   I will note that defense counsel is not going to be

8   precluded from filing pleadings, motions in limine, for the

9   Court to end up considering for whatever ground they believe

10   evidence should be excluded or included in this case.

11   And those will be handled as part of a scheduling

12   conference and pretrial conference that will end up taking

13   place sometime in the future in this matter.

14   Okay. So now we have to deal with the date of the

15   new trial. And according to the Speedy Trial Act, the same

16   trial is to take place 70 days from the date of the granting of

17   the order of the new trial, unless time is waived or excluded

18   in this matter.

19   From the Court's availability, I believe we've got

20   the end of August, which is a little over the 70 days, to be

21   able to try the case, or retry the case.

22   Certainly, if counsel want to get together and get a

23   schedule and contact chambers with regard to the schedule, I

24   don't know what your other trial calendar has, especially

25   defense counsel, I am not quite sure exactly what we're talking