

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

-----

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	NO. 08-20261-JPM
	)	
VON RICO WEBBER,	)	
	)	
Defendant.	)	

-----

MOTION TO WITHDRAW GUILTY PLEA

BEFORE THE HONORABLE CHIEF JUDGE JON PHIPPS MCCALA

APRIL 8, 2010

BRENDA PARKER  
OFFICIAL REPORTER  
SUITE 942 FEDERAL BUILDING  
167 NORTH MAIN STREET  
MEMPHIS, TENNESSEE 38103

2010 MAY -6 A 9:22

RECEIVED  
U.S. ATTORNEY  
W.D. TENNESSEE

## A P P E A R A N C E S

Appearing on behalf of the Plaintiff:

UNITED STATES ATTORNEY'S OFFICE  
SUITE 800 FEDERAL BUILDING  
167 NORTH MAIN STREET  
MEMPHIS, TENNESSEE 38103  
By: KEVIN RITZ, ESQ.

*Fred Godwin  
Ann Roo*

Appearing on behalf of the Defendant:

AUTUMN B. CHASTAIN, ESQ.  
707 ADAMS AVENUE  
MEMPHIS, TENNESSEE 38105

*Michael  
Stenzel*

1                                    THURSDAY AFTERNOON

2                                    APRIL 8, 2010

3                    The motion to withdraw guilty in this case  
4 began on this date, Thursday, April 8, 2010, at 2:01  
5 o'clock p.m., when and where evidence was introduced and  
6 proceedings were had as follows:

7  
8  
9  
10                   MR. GODWIN: I would like to address the court  
11 before we get started if that's all right.

12                   THE COURT: Sure.

13                   MR. GODWIN: Your Honor, first, I would like to  
14 say that as far as the motion by Mr. Webber, the United  
15 States stands by both legally and factually with  
16 everything contained in our response to the defendant's  
17 motion to withdraw his plea. However, AUSA Arun Rao and  
18 myself regarding this motion conducted a further  
19 investigation to include an interview with Mr. Webber's  
20 former lawyer, Ms. Chastain. That investigation to  
21 include that interview has led the United States to  
22 conclude that problems exist regarding Ms. Chastain's  
23 representation of Mr. Webber, such that the United States  
24 should withdraw its opposition to his motion to withdraw  
25 his guilty plea. None of the problems leading to this

1 conclusion involved any agreement or representation by the  
2 United States that any relevant conduct by Mr. Webber  
3 would be withheld from the probation office or the court.  
4 And if the court deems it necessary -- and we have  
5 obtained Mr. Stengel's concurrence on this in advance, the  
6 United States would ask that AUSA Kevin Ritz, former --  
7 the AUSA who formerly represented the United States in  
8 this case be allowed to address the court as an officer of  
9 the court regarding the fact that he made no  
10 representations nor entered into any agreements regarding  
11 relevant conduct not encompassed in the written plea  
12 agreement.

13 **THE COURT:** Then I should allow that to occur.

14 **MR. GODWIN:** Thank you.

15 **THE COURT:** Thank you.

16 **MR. RITZ:** Good afternoon, Your Honor.

17 **THE COURT:** Good afternoon.

18 **MR. RITZ:** With regard to Mr. Von Rico Webber's  
19 plea, I made no oral or written promises, representations  
20 or inducements to Ms. Autumn Chastain or to the defendant  
21 other than those included in his plea agreement. As is  
22 written in the plea agreement, signed by all parties and  
23 filed with this court, that agreement contained the entire  
24 plea agreement between the parties. Specifically, I made  
25 no promise or representation to Ms. Chastain or the

1 defendant that the government would agree at sentencing to  
2 limit the defendant's relevant conduct to a particular  
3 type or amount of drug. To the extent that pleadings  
4 filed by the defense in this case implied, suggests or  
5 allege otherwise, they are incorrect, and the United  
6 States and I deny any such allegation. Thank you, Your  
7 Honor.

8           **THE COURT:** All right. Is there anything else  
9 to be presented on this matter.

10           **MR. STENGEL:** Judge, on behalf of Von Rico  
11 Webber, obviously, Mr. Godwin was right, and we discussed  
12 that, and I had no objection to Mr. Ritz' statement, but I  
13 represent Von Rico Webber and he is my sole interest. I  
14 believe that the issue before this court on this  
15 particular motion, whether he should be allowed to  
16 withdraw his guilty plea or not can be resolved without  
17 this court addressing any dispute between Mr. Ritz and  
18 Ms. Chastain, and I don't represent either one of them,  
19 and I would simply ask the court to grant this motion  
20 because it is -- I think there's enough information in the  
21 record once you go through the seven-factor test,  
22 especially with the United States withdrawing its  
23 opposition and -- that any dispute regarding Mr. Ritz and  
24 Ms. Chastain is frankly not part of Mr. Von Rico Webber's  
25 case, that -- my position -- and the reason that this

1 court -- that Mr. Von Rico Webber has moved to withdraw  
2 his plea is that he did not enter a knowing informed plea  
3 and the reason IS --

4 **THE COURT:** I have the paperwork already. If  
5 you wish to address it, that's okay.

6 **MR. STENGEL:** That's fine. It's our position  
7 that he was misled by Ms. Chastain, and she has told the  
8 court that she misled him. He has, through his pleadings,  
9 told the court that he was misled. The reason that he  
10 received misleading information is simply not pertinent to  
11 this court's decision on this motion in my view, Your  
12 Honor.

13 **THE COURT:** All right. Well, where there's no  
14 opposition to a motion to withdraw a guilty plea, it is  
15 not necessary for the court to address other issues. In  
16 this case, the court will exercise its discretion to allow  
17 withdrawal of the plea without making any determination on  
18 any remaining issue in the case, that being completely  
19 unnecessary to the administration of justice in this case.  
20 I think that's the way I should handle that. Any other  
21 approach is not necessary. I think that's all I should  
22 say on the matter. What we will do is reflect the motion  
23 as granted for the reasons stated by the United States in  
24 its statement in court today and not for any other reason.

25 Now, we're going to need to set the case for

1 trial and proceed with the disposition of the case. It  
2 appears that we should be able to proceed promptly. This  
3 case is now an older case and been fully developed.

4           **MR. STENGEL:** Judge, with respect to that  
5 issue, the co-defendant is set for report late May, and  
6 early June rotation docket for a trial. I -- I am  
7 scheduled to be out of the country on the date of the  
8 report date, but I think that an early June rotation is  
9 certainly -- it is something that I have discussed with  
10 the government, we believe that that is a realistic trial  
11 setting, and I think it would be appropriate to set  
12 Mr. Von Rico Webber for report concurrent with that same  
13 late May day, and we will see what my schedule does, but  
14 we will plan on a June rotation trial --

15           **THE COURT:** All right.

16           **MR. STENGEL:** -- if that's acceptable to the  
17 court.

18           **THE COURT:** It's certainly acceptable. It is  
19 an older case, and it needs to be given expedited  
20 attention. It is still reflected as a three-day trial, I  
21 assume that is still correct.

22           **MR. RAO:** Yes, Your Honor.

23           **THE COURT:** I will be in all likelihood in  
24 Jackson, Tennessee trying the Semrau case, but you never  
25 know, things do happen, but it can be tried on the

1 rotation because it's a relatively short case. I  
2 understand it is the request of the defense that you have  
3 that much time to be prepared and ready to go.

4 **MR. STENGEL:** Certainly, Your Honor.

5 **THE COURT:** What we're going to do is prepare  
6 an authorization so that Mr. Warren can reflect in the  
7 minutes and time is excluded time in order to allow for  
8 defense to prepare, which is clearly supported by the  
9 record in the case.

10 This case had been set for sentencing on  
11 April 27th, obviously, the plea has been withdrawn and I  
12 simply want to note that date is a canceled date for  
13 purposes of the record.

14 **MR. STENGEL:** Thank you.

15 **THE COURT:** I have signed the documentation,  
16 and that will conclude this matter. Then I will see  
17 everybody on the next matter, which will be in about 20  
18 minutes.

19 **THE CLERK:** All rise. This honorable court  
20 stands in recess.

21 **(Recess taken at 2:11 P.M.)**  
22  
23  
24  
25



C E R T I F I C A T E

I, Brenda Parker, do hereby certify that the foregoing 8 pages, are unredacted, and to the best of my knowledge, skill and ability, a true and accurate transcript from my stenotype notes of the motion hearing on April 8, 2010, in the matter of:

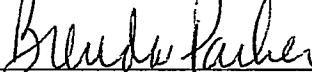
United States of America

vs.

Von Rico Webber

Dated this 3rd day of May, 2010.

S/Brenda Parker



BRENDA PARKER

Official Court Reporter

United States District Court

Western District of Tennessee