

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
Judge Daniel D. Domenico

Criminal Action No. 1:21-cr-00246-DDD

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. JASON MCGUIRE; and

2. TIMOTHY STILLER,

Defendants.

UNITED STATES' UNOPPOSED MOTION TO DISMISS

The United States moves, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, to dismiss the Superseding Indictment, ECF No. 102, and the Indictment, ECF No. 1, without prejudice as to both Defendants in this case. In support of the Motion, the United States states as follows:

1. On July 28, 2021, a grand jury in the District of Colorado returned an Indictment charging Defendants with one count of conspiracy to fix prices and rig bids in violation of 15 U.S.C. § 1. ECF No. 1. On July 12, 2022, a grand jury in the District of Colorado returned a Superseding Indictment additionally charging Defendant Stiller with two counts of witness tampering and one count of obstruction of justice. ECF No. 102.

2. The United States filed its *James* log and accompanying brief on August 17, 2022. (ECF No. 137). A *James* hearing was held on September 15, 2022.

3. On October 14, 2022, the Court issued an order concluding the United States had not established the charged conspiracy by a preponderance of evidence, effectively excluding

most of the government’s evidence in the process. ECF No. 268. The Order departs from prior rulings in the District concerning the same conspiracy. *See United States v. Penn*, No. 21-cr-00152, ECF No. 559 at 7–8 (finding, by a preponderance of evidence, “[t]he government has shown that a conspiracy to rig bids and fix prices for broiler chicken products in the United States did exist and that such conspiracy operated between at least August 2011 and early 2019”); *see also id.*, ECF No. 932 (holding that a reasonable jury could have found the conspiracy existed beyond a reasonable doubt).

4. Nevertheless, in light of the Court’s ruling, the United States moves to dismiss the case.

5. Counsel for the United States has conferred with counsel for Defendants, who do not oppose this motion.

Dated: October 16, 2022

By: /s/ Sara M. Clingan
Sara M. Clingan
Laura Jing Butte
Daniel A. Loveland, Jr.
Yixi (Cecilia) Cheng
Christian Neumeister
Kaitlyn Barry
Trial Attorneys
U.S. Department of Justice
Antitrust Division
450 5th Street N.W.
Washington, D.C. 20530
202-480-1951
sara.clingan2@usdoj.gov

Counsel for the United States

**CERTIFICATE OF COMPLIANCE WITH
TYPE-VOLUME LIMITATIONS**

I hereby certify that the foregoing complies with the type-volume limitation set forth in Judge Domenico's Practice Standard III(A)(1).

By: /s/ Sara M. Clingan
Sara M. Clingan
Counsel for the United States

CERTIFICATE OF SERVICE

I hereby certify that on this October 16th, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties of record.

By: /s/ Sara M. Clingan
Sara M. Clingan
Counsel for the United States