



Monitoring the Trial of Emmanuel Toto Constant: July 8th 2008: Opening Day of Trial

Courtroom Presence

About 15 Dwa Famn members and 10 other supporters came upstairs to the courtroom (filled about 3-4 rows of 6 available).

Summary of Issues Covered

Hearing lasted about 30 minutes and dealt primarily with matters about what evidence will be introduced and prosecution reports that Constant has been calling prosecution witnesses.

Items the Court Initially Stated for the Record

1. Court mentioned that he had received letter from Councilman Barron and all attorneys acknowledged receiving a copy.
2. Court stated that the Defendant rejected 3 – 9 year plea bargain that was put on the table.

Discussions about Evidence to be Introduced

1. The Prosecutor, Thomas Shellhammer, wanted to introduce evidence of other fraudulent dealings by Constant that he was not charged with to show the broad scheme to defraud. The prosecution has two witnesses who can testify that Constant trained them on straw buying tactics which inflated the value of two separate properties in 2004. Constant was even present during the closings of these properties. It was noted that the witnesses actually engaged in fraudulence. Although Constant did not financially benefit from this deal, the prosecution wanted to introduce this evidence to show intent and knowledge of the entire scheme to defraud over three-year period. Defense (Sam Carliner) protested that prosecution needs to prove case through properties for which indictments have been issued and argued that other evidence for which Constant has not been charged is too prejudicial). It was not clear whether this evidence can be introduced during the trial.
2. The prosecution will not introduce the plea agreement by Constant (1-3 year sentence) in Suffolk County.
3. Prosecution said that no evidence of "prior bad acts" will be introduced.

Witness Tampering

Shellhammer said that Constant has the witness list and that some of the witnesses have reported phone calls from Constant. Shellhammer asked that Constant be instructed not to contact the witnesses. Judge Gerges warned Constant that he could face witness tampering criminal charges if any more calls are made.

Jury Selection

Constant signed a waiver of right to be present for selection of the jury.