

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

| | | |
|--------------------------------------|---|------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| |) | Case No. 2:00CR10101 |
| |) | |
| v. |) | OPINION AND ORDER |
| |) | |
| CLAUDE SLOAN AND KEITH SLOAN, |) | By: James P. Jones |
| |) | United States District Judge |
| Defendants. |) | |

The defendant Claude Sloan has filed a Motion for Reconsideration, again asking the court to continue the trial in this case, scheduled to begin on March 12, 2001, pending a decision by the Virginia Court of Appeals on his recent state felony conviction. Keith Sloan, his co-defendant, joins in the motion. For the reasons that follow, the motion will be denied.

The defendants argue that the “ends of justice” require that this case be continued, *see* 18 U.S.C.A. § 3161(h)(8)(A) (West 2000), asserting both that Sloan’s state conviction would “impair” his credibility as a witness and would significantly impact his criminal history computation for purposes of sentencing in the instant case,

should Sloan be convicted. According to the defendants, a decision in favor of Sloan by the Virginia Court of Appeals would eliminate both of these concerns.¹

As previously stated, these arguments are too speculative to warrant the granting of a continuance in this case, in light of the strong policy for speedy determination of federal criminal cases.

Of course, the court has the power, upon proper motion, to exclude evidence of a prior conviction for impeachment purposes, pursuant to Federal Rule of Evidence 609(a). Based on the circumstances, the court can determine whether evidence of such a conviction should be excluded in its entirety or whether disclosure should be limited “to the fact of conviction without revealing its nature.” *See United States v. Sanders*, 964 F.2d 295, 298 (4th Cir. 1992) (*quoting United States v. Beahm*, 664 F.2d 414, 419 (4th Cir. 1981)).²

For the aforementioned reasons, it is **ORDERED** that the Motion for Reconsideration (Doc. No. 32) is hereby denied.

¹ The defendants agree that even if he is successful on appeal in obtaining a reversal of his state conviction, Claude Sloan would most likely be subject to a retrial in state court, but they hope that his trial in this court would be held before the state court could have the opportunity to retry him.

² The government indicates that it may seek to introduce the acts involved in the prior state conviction to show an element of the federal offense, under Federal Rule of Evidence 404(b). Even if Claude Sloan is eventually acquitted of such conduct, however, it is still possible for it to be the subject of 404(b) evidence. *See United States v. Van Cleave*, 599 F.2d 954, 957 (10th Cir.1979). In any event, such evidence is also subject to exclusion if unfairly prejudicial. *See Fed. R. Evid.* 403.

ENTER: February 21, 2001

United States District Judge