

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

v.

WALTER ANDERSON,

Defendant.

Criminal No. 05-66 (PLF)

**MEMORANDUM IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS
COUNTS SEVEN THROUGH TEN OF THE INDICTMENT
(Anderson Pretrial Motion No. 7)**

Four of the six counts charging violations of D.C. Code § 22-3221(a) (Fraud in the First Degree) are barred by the applicable statute of limitations.

“[A] prosecution for a felony . . . is barred if not commenced within six (6) years after it is committed.” D.C. Code § 23-113(a)(4). An offense is committed “either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct . . . is terminated.” D.C. Code § 23-113(b). Here, “a legislative purpose to prohibit a continuing course of conduct” does appear on the face of Section 3221(a). Thus, the question with respect to each count is when the government alleges the course of conduct to have terminated.

In each of the four counts at issue here -- which cover the 1995, 1996, 1997, and 1998 offense years -- the government alleges that Mr. Anderson “engaged in a scheme and systematic course of conduct” that began in January of the offense year, and continued through April 15 of the following year. For example, with respect to Count Seven (1995), the government alleges that “[b]eginning on or about January 1, 1995, and continuing through on or

about April 15, 1996, . . . Anderson engaged in a scheme and systematic course of conduct with intent to defraud” (Indictment ¶ 47.) The “continuing course of conduct” in 1995 thus is alleged to have terminated on April 15, 1996. Likewise, Counts Eight through Ten allege termination dates of April 15, 1997, April 15, 1998, and April 15, 1999, respectively. Because each of these alleged termination dates occurred more than six years before September 30, 2005 (the date of the Superseding Indictment), Counts Seven through Ten are barred by the District of Columbia’s statute of limitations.¹

CONCLUSION

For the reasons set forth above, Counts Seven through Ten of the Superseding Indictment are untimely and must be dismissed.

Respectfully submitted,

/s/

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¹ Even if these various counts are deemed to relate back to counts in the original Indictment (filed February 23, 2005), Counts Seven through Nine still would be time-barred. Indeed, in that circumstance, only Count Ten would be saved from dismissal.