

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	3:06-cr-00010 JWS
)	
vs.)	ORDER FROM CHAMBERS
)	
JOSHUA MICHAEL PATTERSON,)	[Re: Dockets 41 and 46]
)	
Defendants.)	
)	

I. MOTION PRESENTED

At docket 41, defendant Joshua Michael Patterson moved to sever the charges against him, asking that they be addressed in separate trials. At docket 46, Patterson moved for an evidentiary hearing on the motion to sever. The motions were briefed by the parties. Thereafter, the magistrate judge considered the parties' paper and then filed an initial report and recommendation at docket 56. In that report, Magistrate Judge Roberts recommended that Patterson's motion to sever at docket 41 be granted in part and denied in part; he recommended that the two felon-in-possession charges be severed for separate trial, while the three armed robbery of financial institution charges, the three brandishing of firearms charges, and the two possession of stolen firearms charges would remain joined for trial. The magistrate judge also recommended that the request for an evidentiary hearing be denied, because a hearing was unnecessary to the proper disposition of the motion to sever. Patterson filed objections at docket 57 to which the government did not respond. The magistrate judge filed a final report and recommendation at docket 58 in which he declined to modify his initial recommendations.

II. STANDARD OF REVIEW

The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.”¹ When reviewing a magistrate judge’s report and recommendation in a case such as this one, the district court conducts *de novo* review of all conclusions of law,² and any findings of fact to which objections have been made.³ Uncontested findings of fact are reviewed for clear error.⁴

III. DISCUSSION

Having applied the standard in Section II above, this court concludes that Magistrate Judge Roberts has correctly found the facts and applied the law. His discussion is thorough and clearly expressed. There is no need for this court to add any additional commentary. For the preceding reason, this court adopts the findings of fact and conclusions of law recommended by the magistrate judge. Based thereon, the motion at docket 41 is **GRANTED** in part and **DENIED** in part as follows: All of the charges, except the two felon-in-possession charges, will be tried together in the first trial. Thereafter, the felon-in-possession charges in counts 9 and 10 will be tried in a second trial. The motion at docket 46 is **DENIED**.

DATED at Anchorage, Alaska, this 18th day of May 2006.

/s/
JOHN W. SEDWICK
UNITED STATES DISTRICT COURT JUDGE

¹28 U.S.C. § 636(b)(1).

²*Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989), *overruled on other grounds by Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996).

³28 U.S.C. § 636(b)(1).

⁴*Taberer v. Armstrong World Industries, Inc.*, 954 F.2d 888, 906 (3d Cir. 1992).