

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse  
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Chicago, Illinois 60604



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## ORDER

Submitted January 13, 2015

Decided January 29, 2015

Before

DIANE P. WOOD, *Chief Judge*

RICHARD D. CUDAHY, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

No. 14-1665	UNITED STATES OF AMERICA, Plaintiff - Appellee  v.  BRUCE JONES, Defendant - Appellant
<b>Originating Case Information:</b>	
District Court No: 1:12-cr-00072-TWP-DML-1 Southern District of Indiana, Indianapolis Division District Judge Tanya Walton Pratt	

The following are before the court:

1. **MOTION TO SUSPEND BRIEFING; VACATE SENTENCE AS TO COUNTS 2, 3 & 4; AND REMAND FOR SENTENCING ON ALL COUNTS**, filed on January 13, 2015, by counsel for the appellee.
2. **RESPONSE IN OPPOSITION TO GOVERNMENT'S MOTION TO SUSPEND BRIEFING; VACATE SENTENCE AS TO COUNTS 2, 3, & 4; AND REMAND FOR SENTENCING ON ALL COUNTS**, filed on January 20, 2015, by counsel for the appellant.

Bruce Jones was charged with three counts of possessing firearms as a convicted felon and one count of healthcare fraud. Both the government and Jones moved the district court to sever the firearms counts from the fraud count. The district court granted their motions and severed the counts under Rule 14(a) of the Federal Rules of Criminal Procedure, but the court didn't move the counts into separately docketed cases. After Jones was convicted and sentenced to 100 months' imprisonment for illegally possessing firearms, he filed this appeal. He has since been tried and convicted for healthcare fraud. The government wants us to vacate the firearms sentence and remand so that the district court may sentence Jones on all counts of the indictment in one proceeding. Jones has filed a response in opposition.

We ruled in *United States v. Kaufmann*, 951 F.2d 793, 795 (7th Cir 1992), that we lacked appellate jurisdiction because some counts of the indictment in that case remained pending in the district court. We see no principled basis for distinguishing *Kaufmann* in this case. It's true, as Jones points out in his response, that all the counts in *Kaufmann* "were considered together in a single criminal trial." *Kaufmann*, 951 F.2d at 795. But although *Kaufmann* noted that fact, it doesn't follow that counts tried separately should necessarily be treated as two cases. A single trial is a sure sign that there is only one case and, thus, that there should be only one appeal, but a district court may order separate trials without splitting a case in two. See Fed. R. Crim. P. 14(a) (permitting courts to "order separate trials of counts . . . or provide any other relief that justice requires"); see also *United States v. Leichter*, 160 F.3d 33 (1st Cir. 1998) ("[W]e think that where a matter originated as one case, normally it should be treated as two cases only where the district court has made clear its intention to sever the case into two cases."). Although the district court in this case ordered separate trials, all counts remain under the same docket number, and nothing in the court's order provides notice that the case was being split into entirely separate proceedings. We thus conclude that there is no final judgment to appeal.

Accordingly, the government's motion is **DENIED**, and this appeal is **DISMISSED** for lack of appellate jurisdiction. Although we have not vacated the sentence, we note that, when sentencing Jones on his conviction for healthcare fraud, the district court can take into account the sentence imposed on the firearms counts.