IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

UNITED STATES OF AMERICA,	*	
	*	
VS.	*	
	*	
CATHERINE M. WEBSTER,	*	CASE NO. 4:06-PO-26,
SHEILA T. SALMON,	*	CASE NO. 4:06-PO-37,
VALERIE A. FILLENWARTH,	*	CASE NO. 4:06-PO-38, and
MELISSA S. HELMAN,	*	CASE NO. 4:06-PO-40,
Defendants.		

ORDER DENYING DEFENDANTS' MOTIONS FOR JURY TRIAL

______A Criminal Information was filed in the above caption action on November 20, 2006, charging each of the above Defendants with the violation of Title 18, United States Code, Section 1382, punishable by a fine or imprisonment of not more than six months, or both. On November 21, 2007, Notice was filed and rendered upon Defendants advising that the actions designated above "will be heard in District Courtroom 2, Columbus, Georgia, at 9:00 a.m. on 01/29/2007. This case will be tried on January 29, 2007 or as soon thereafter as can be reached. All counsel and parties are hereby directed to disregard the automated Response/Reply scheduling in regard to pleadings and motions and adjust their responses according to the trial date, so as not to cause delay in the trial schedule.

On January 13, 2007, Defendants filed a Motion For Jury Trial of the above caption action. The maximum punishment prescribed for violation of 18 U.S.C. § 1382, six months imprisonment and/or a fine, establishes such violation as a Class B Misdemeanor. Congress has expressly designated Class B misdemeanors as "petty offenses." *See 18 U.S.C. § 19.*

Defendants' entitlement to a jury trial on a Class B misdemeanor has been determined adversely by the United States Court of Appeals for the Eleventh Circuit in *United States v. Chavez,* 204 F.3d 1305 (11th Cir. 2000) as follows:

> The Sixth Amendment of the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy a right to a speedy and public trial, by an impartial jury.". . . U.S. Const. Amend. VI. This amendment has been construed to apply only to "serious" offenses, and not to "petty offenses." *See Duncan v. Louisiana*, 391 U. S. 145, 159 S.Ct. 1444 (1968). The most relevant factor for ascertaining whether a crime is serious or petty is the maximum penalty that the legislature has authorized. *See Baldwin v. New York,* 399 U.S. 66, 68, 90 S.Ct. 1886 (1970) (plurality opinion). The maximum penalty reveals the legislature's determination about the severity of an offense. A court should not substitute its own judgment regarding an offense's severity for that of Congress, which is the branch "better equipped to perform the task." *Blanton v. City of North Las Vegas,* 489 U.S. 538, 541, 109 S.Ct. 1289 (1989).
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> > An offense that carries a possible sentence exceeding six months' imprisonment is severe and affords a defendant the right to a jury trial. *See Baldwin*, 399 U.S. at 69, 90 S.Ct. 1886. In contrast, a crime that carries a maximum incarceration term of six months or less is presumed petty, not entitling a defendant to a jury trial. *See United States v. Nachtigal*, 507 U.S. 1, 3, 113 S.Ct. 1072 (1993).

Chavez, 204 F.3d at 1310. Title 18, U.S.C. Section 1382, in its penalty provision is not vague or ambiguous, but clearly indicates that Congress intends violations thereof to receive Class B misdemeanor treatment. This court exercises its discretion against trial by jury in this Class B misdemeanor action.

WHEREFORE, Defendants Motions for Jury Trial are DENIED.

SO ORDERED this 16th day of January 2007.

S/ G. MALLON FAIRCLOTH
UNITED STATES MAGISTRATE JUDGE