

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

UNITED STATES OF AMERICA

v.

BRIAN GUNDERSEN,

Defendant.

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Criminal No. 21-CR-137 (TFH)

**UNITED STATES' MOTION TO
TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT**

The United States of America hereby moves this Court to exclude the time within which the trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, from the time period of April 22, 2021 to May 7, 2021, on the basis that the ends of justice served by taking such actions outweigh the best interest of the public and the defendant in a speedy trial pursuant to the factors described in 18 U.S.C. § 3161(h)(7)(A), (B)(i), (ii), and (iv).¹ In support of its motion, the government states as follows:

1. Defendant is charged via indictment with offenses related to crimes that occurred at the United States Capitol on January 6, 2021.
2. The defendant is not currently detained.
3. The government has already previously filed a motion, on March 19, 2021, to exclude time under the Speedy Trial Act (ECF No. 9). The government incorporates that motion, and the arguments in support of that motion, into this motion.
4. Defense counsel orally opposed the March 19, 2021 motion at a hearing on March 31,

¹ The government recognizes that the defendant has not yet been arraigned on the indictment, and the government has no objection to scheduling an arraignment within the next 60 days. However, the government is requesting that in the event an arraignment is scheduled within that period, that a status hearing is also set in about 60 days and that time toll until that status hearing.

2021. The Court decided to set a status hearing on April 22, 2021, and toll time until that date.

5. Since that time, this case has been reassigned to the Honorable Thomas F. Hogan. When that reassignment occurred, the Court rescheduled the April 22, 2021 status hearing to May 7, 2021.
6. Because the status hearing is now set for May 7, 2021, rather than April 22, 2021, the government asks that the Speedy Trial time toll until May 7, 2021. That tolling is arguably not necessary because of the Chief Judge's standing order of March 5, 2021, which has tolling provisions through August 31, 2021. However, the government is filing this motion in an abundance of caution.
7. Defense counsel has indicated he opposes this motion.

WHEREFORE, the government respectfully requests that this Court grant the motion for the Court to exclude the time within which the trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, on the basis that the ends of justice served by taking such actions outweigh the best interest of the public and the defendant in a speedy trial pursuant to the factors described in 18 U.S.C. § 3161(h)(7)(A), (B)(i), (ii), and (iv).

Respectfully submitted,

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ORDER

Based upon the representations in the United States' Motion to Exclude Time Under the Speedy Trial Act, and upon consideration of the entire record, it is hereby, this _____ day of _____, 2021,

ORDERED that the United States' Motion to Exclude Time Under the Speedy Trial Act, is hereby GRANTED; it is further

ORDERED that the time period from April 22, 2021 through May 7, 2021 is hereby excluded from the computation of time within which a trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq*

THE HONORABLE THOMAS F. HOGAN
UNITED STATES SENIOR JUDGE