

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
v.)	
)	No. 21-CR-678 BAH
GREGORY LAMAR NIX,)	
)	
Defendant.)	
_____)	

JOINT MOTION TO CONTINUE STATUS CONFERENCE

The United States of America, through the U.S. Attorney for the District of Columbia, and joined by defendant Gregory Lamar Nix, through undersigned counsel, request that the status conference currently scheduled for December 3, 2021 at 9:15 a.m. be continued for approximately 30 days, and that the Court exclude the time until that next status conference date from 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). In support, the parties submit as follows:

1. On October 26, 2021, Mr. Nix was charged via criminal complaint with: one count of Assaulting, Resisting, or Impeding Certain Officers Using a Dangerous Weapon or Inflicting Bodily Injury, in violation of 18 U.S.C. §§ 111(a)(1) and (b); one count of Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); one count of Destruction of Government Property, in violation 18 U.S.C. § 1361; one count of Knowingly Entering or Remaining in a Restricted Building or Grounds With a Deadly or Dangerous Weapon, in violation of 18 U.S.C. §§ 1752(a)(1) and (b)(1)(A); one count of Disorderly or Disruptive Conduct in a Restricted Building or Grounds with a deadly or dangerous weapon, in violation of 18

U.S.C. §§ 1752(a)(2) and (b)(1)(A); one count of Engaging in Physical Violence in a Restricted Building or Grounds with a deadly or dangerous weapon, in violation of 18 U.S.C. §§ 1752(a)(4) and (b)(1)(A); one count of Disorderly Conduct in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D); and one count of Act of Physical Violence in the Capitol Buildings or Grounds, in violation of 40 U.S.C. § 5104(e)(2)(F).
See Dkt. 1.

2. On November 10, 2021, Mr. Nix was arrested in Cleveland, Alabama. *See* Dkt. 5.
3. On November 17, 2021, Mr. Nix was indicted on the same eight charges with which he had been charged via complaint. *See* Dkt. 6.
4. On November 23, 2021, Mr. Nix had his initial appearance in U.S. District Court for the District of Columbia, where he was released on his personal recognizance subject to conditions, including GPS monitoring and home detention. *See* Dkt. 10. Mr. Nix was arraigned on the charges in the Indictment, and waived formal reading of the Indictment. The Court also excluded time under the Speedy Trial Act until December 23, 2021.
5. At the time of his initial appearance in the Northern District of Alabama, Mr. Nix was represented by a Federal Public Defender, John Cockrell. However, Mr. Nix retained new counsel, undersigned defense counsel Ms. Davis, as of November 22, 2021. Ms. Davis has been working with local counsel to prepare her pro hac vice application to be admitted to appear in this Court, but believes that it may not be ready in time to be ruled on prior to the December 3, 2021 status conference.
6. In addition, the parties believe that the provision of discovery further justifies a continuance and exclusion of time under the Speedy Trial Act in this case.

7. The parties will shortly file an agreed motion to enter a protective order governing the dissemination of discovery. The parties will also file an agreed motion seeking an order permitting the disclosure of Rule 6(e) and sealed material.
8. The government anticipates then producing preliminary discovery in this case in the short term. But that will be only a portion of the potentially relevant discovery in this case, which will be voluminous. Because the charged criminal acts took place at the same general time and location as many other charged crimes, the government's investigation into the breach of the United States Capitol on January 6, 2021 has resulted in the accumulation and creation of a massive volume of data that may be relevant to many defendants. The government is working to meet its unprecedented overlapping and interlocking discovery obligations by providing voluminous electronic information in the most comprehensive and useable format. However, that process is anticipated to extend well beyond the next status conference date of December 3, 2021. Additionally, even after defense counsel reviews the preliminary discovery, arrangements will need to be made to allow Mr. Nix to view it, pursuant to the protective order.
9. In addition, on November 1, 2021, in recognition of the high rate of transmission of the Delta variant in the District of Columbia and other ongoing factors relating to the COVID-19 pandemic, this Court issued Standing Order 21-62, limiting the number of jury trials that may be conducted at one time until at least December 15, 2021. Further, the Court found that "for those cases that cannot be tried consistent with those health and safety protocols and limitations, the additional time period from August 31, 2021 through December 15, 2021 is excluded under the Speedy Trial Act as the ends of justice served by the continuances to protect public health and safety and the fair trial rights of a

defendant outweigh the best interest of the public and any defendant's right to a speedy trial, pursuant to 18 U.S.C. 3161(h)(7)(A)." (As detailed in Standing Order 21-62, the Court had previously found that due to the exigent circumstances created by the COVID-19 pandemic, the time period from March 17, 2020 through October 31, 2021 would be excluded under the Speedy Trial Act in most criminal cases.) The effect of the continuing pandemic on the ability to hold jury trials also supports exclusion of time under the Speedy Trial Act in this case, at least through December 15, 2021, given that Mr. Nix is out of custody and only recently arrested.

10. Accordingly, the parties now jointly move this Court to continue the status conference, currently scheduled for December 3, 2021, for a period of approximately 30 days, subject to this Court's availability. Such a continuance will allow for the continued provision and review of discovery in this unusual and complex case, and will grant counsel for the defendant and the attorney for the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Proceeding to trial without such a continuance would be likely to result in a miscarriage of justice, would make it unreasonable to expect adequate preparation for pretrial proceedings and trial itself due to the unusual and complex nature of the prosecution, and would deny counsel for both parties the time necessary for effective preparation.
11. The parties also request that the time until the date of the continued status conference in this matter be excluded from calculation of the time necessary to commence a trial, pursuant to the Speedy Trial Act, 18 U.S.C. § 3161. The parties submit that a continuance of approximately 30 days is warranted and that an order excluding time

would best serve the interests and ends of justice and outweigh the interests of the public and defendant in a speedy trial.

WHEREFORE, the United States and Mr. Nix request that this Court continue the status conference currently scheduled for December 3, 2021 at 9:15 a.m. for a period of approximately 30 days, and that the Court exclude the time until that next status conference date from 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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