

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

UNITED STATES OF AMERICA,	:	
	:	
v.	:	Case No. 21-CR-347 (TNM)
	:	
ROBERT LEE PETROSH,	:	
	:	
Defendant.	:	

JOINT MOTION TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT

The United States of America, through the U.S. Attorney for the District of Columbia, and joined by defendant Robert Lee Petrosch, through undersigned counsel, request that the Court exclude the time between September 24, 2021 and October 5, 2021 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 April 29, 2021, the defendant was charged via criminal complaint with Unlawful Entry and Disorder and Disruptive Conduct in a Restricted Building, in violation of 18 U.S.C. § 1752(a)(1) and (2), and Disorderly Conduct and Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D) and (G). *See* Dkt. 1.
2. On May 4, 2021, the defendant was arrested in New Jersey and had his initial appearance.
3. On May 7, 2021, the defendant was charged via Information with one count of Entering and Remaining in any Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(1); one count of Disorderly and Disruptive Conduct in a Restricted Building or

Grounds, in violation of 18 U.S.C. § 1752(a)(2); one count of Disorderly Conduct in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(D), and one count of Parading, Demonstrating, or Picketing in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(F).

4. On May 11, 2021, the defendant had his initial appearance and arraignment in the U.S. District Court for the District of Columbia, after which he was released on his personal recognizance subject to conditions. *See* Dkt. 10. Magistrate Judge Meriweather excluded time under the Speedy Trial Act for 60 days in the interest of justice, and instructed the parties to contact the Court to schedule a status hearing date.
5. On June 16, 2021, the Court set a status conference for June 29, 2021.
6. On June 21, 2021, the Court, upon motion of the parties, entered a protective order governing the dissemination of discovery, as well as an order authorizing the disclosure of materials protected by Federal Rule of Criminal Procedure 6(e) and sealed materials. *See* Dkts. 13 & 14.
7. At the June 29, 2021 status conference, the government indicated that it had produced the majority of the case file pertaining specifically to the defendant. The parties jointly requested that the Court set another status conference 60 days later and exclude time under 18 U.S.C. § 3161(h)(7)(A) of the Speedy Trial Act to permit the defendant additional time to review the discovery and to begin discussions of a potential resolution of the case. The Court granted the parties' joint request, set a status conference of September 1, 2021, and excluded time under the Speedy Trial Act between June 29, 2021 and September 1, 2021.

8. On August 29, 2021, the government filed an unopposed motion to continue the status conference and to exclude time under the Speedy Trial Act. Dkt. 16. The government's motion noted that the parties were continuing to engage in plea negotiations, and further indicated that due to a medical emergency, defense counsel had requested additional time to review the discovery with the defendant. *Id.* at 4.
9. On August 30, 2021, the Court granted the government's unopposed motion, set a status conference date of September 24, 2021, and excluded the time from August 30, 2021 through and including September 24, 2021, under the Speedy Trial Act. Dkt. 17.
10. On September 3, 2021, the defendant filed a motion to continue the September 24, 2021 status conference for an additional thirty days, and to exclude time under the Speedy Trial Act. Dkt. 19.
11. The Court denied the defendant's motion on the basis that the Court had already granted a continuance in its August 30, 2021 order (Dkt. 17). Nevertheless, the Court rescheduled the September 24 status conference to October 5, 2021. The Court's minute order rescheduling the status conference to October 5, 2021 was silent with respect to the tolling of time under the Speedy Trial Act.
12. The government continues to produce discovery to the defendant, including the recent production of approximately 850 pages of redacted reports from United States Capitol Police (USCP) investigations of alleged wrongdoing by USCP officers on January 6, 2021. Additionally, upon reviewing USCP surveillance footage, the government identified additional footage of the defendant inside the Rotunda that could potentially form the basis of new charges against the defendant. The defense has requested additional time to review that surveillance footage, and arrangements must also be made

to permit the defendant to review that material, some of which is designated “Highly Sensitive” pursuant to the protective order. Overall, the parties are continuing to diligently review this discovery and to discuss what implications, if any, the discovery has on a potential resolution of this case. The parties intend to provide an update to the Court about the nature of this newly uncovered discovery at the October 5, 2021 status conference.

WHEREFORE, the United States and the defendant jointly request that this Court exclude the time from September 24, 2021, through and including October 5, 2021 (the date of the next status conference) from the time within which the indictment must be returned and 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,

CHANNING D. PHILLIPS,
Acting United States Attorney
DC Bar No. 415793

/s/ Hava Arin Levenson Mirell
HAVA ARIN LEVENSON MIRELL
Assistant United States Attorney, Detailee
U.S. Attorney’s Office
Central District of California
312 N. Spring St., Suite 1100
Los Angeles, CA 90012
(213) 894-0717

/s/ Steven P. Scheffler
STEVEN P. SCHEFFLER
Reynolds & Scheffler, LLC
1200 Mill Road, Suite C
PO Box 718

Northfield, NJ 08225
Counsel for Robert Lee Petrosch