

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

UNITED STATES OF AMERICA	:	CRIMINAL NO.: 21-CR-392-RCL
	:	
v.	:	
	:	
ALAN HOSTETTER,	:	
RUSSELL TAYLOR,	:	
ERIK SCOTT WARNER,	:	
FELIPE ANTONIO “TONY”	:	
MARTINEZ,	:	
DEREK KINNISON, and	:	
RONALD MELE,	:	
	:	
Defendants.	:	

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

The United States of America moves to exclude the time between September 13, 2022, and September 19, 2022, 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 Defendants 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 of this motion, the United States states as follows:

On July 26, 2022, the United States filed a Motion To Continue Status Hearing and To Exclude Time Under the Speedy Trial Act. *See* ECF No. 142. In that motion, the United States sought to “exclude the time until the next hearing under the Speedy Trial Act.” *Id.* In support of its motion, the United States wrote:

The government seeks this continuance in order to continue ongoing discussions with defense counsel concerning a pre-trial resolution for some of the defendants in this case. The government submits that this continuance will be in the interests of justice and will outweigh the interests of the public and the defendants in a speedy trial based upon the needs of the parties to engage in ongoing discussions concerning a potential pre-trial

resolution of the case, and for the parties to thereafter engage in effective preparations, as needed, for any trial. Counsel for five of the defendants (Mele, Martinez, Warner, Kinnison, and Taylor) consent to this request. Prior to filing this motion, on July 24, 2022, the government contacted Mr. Hostetter for his position on this motion but has not yet received a response.

Id.

The following day, the Court granted the motion and reset the status hearing—previously scheduled for July 28, 2022—for September 12, 2022. ECF No. 145. The Court also granted the United States’ motion to exclude time, “find[ing] that this continuance is in the interest of justice and will outweigh the interest of the public and the defendants in a speedy trial.” *Id.* The Court further noted that “Defendant Alan Hostetter has two currently pending motions [ECF Nos. 99 & 100] before this Court. Accordingly, the Speedy Trial Act is currently tolled as to Hostetter. 18 U.S.C. § 3161(h)(1)(D).” *Id.*

On September 9, 2022, the Court *sua sponte* vacated the September 12, 2022, status conference. *See* Minute Order of September 9, 2022. On September 15, 2022, the Court set a status conference for September 20, 2022. *See* Minute Order of September 15, 2022. At that status conference, the Court made findings in the interest of justice to exclude the time between September 20, 2022, through December 2, 2022, under the Speedy Trial Act. *See* Minute Entry of September 20, 2022.

Because the Court granted the United States’ July 26, 2022, motion to “exclude the time *until the next hearing* under the Speedy Trial Act,” ECF No. 142 (emphasis added), the United States submits that the time between September 13, 2022, and September 19, 2022, was excluded when the Court *sua sponte* rescheduled the status conference. Out of an abundance of caution, and to make the record explicit on this point, the United States moves to exclude this time for the same reasons as those identified in the prior motion. The United States notes that it is in

continued discussions of pretrial resolutions with certain Defendants, and was during this time period. Finally, as previously noted by the Court, that Defendant Hostetter's motions remain pending provides a further basis to exclude this time. *See* 18 U.S.C. § 3161(h)(1)(D).

Counsel for Defendants Kinnison and Taylor do not oppose this request. Defendant Hostetter opposes this motion, and wrote to the United States, "I object to any forced time exclusion. I maintain my position and Constitutional right to a speedy trial, which continues to be violated." Prior to filing this motion, on September 26, 2022, the United States also contacted counsel for Defendants Warner, Martinez, and Mele, but has not yet received a response.

For the foregoing reasons, the Court should grant the motion and exclude the time between September 13, 2022, and September 19, 2022 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 defendants 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,

MATTHEW GRAVES
United States Attorney
DC Bar No. 481052

By: /s/ Anthony W. Mariano
Anthony W. Mariano, MA Bar No. 688559
Thomas T. Ballantine, California Bar No. 208193
Trial Attorneys, Detailees
United States Attorney's Office
for the District of Columbia
601 D Street NW
Washington, DC 20579
(202) 476-0319
Anthony.Mariano@usdoj.gov
202-532-3048
Thomas.Ballantine@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this date, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record for the defendants.

/s/ Anthony W. Mariano _____

Anthony W. Mariano

MA Bar No. 688559

Trial Attorney, Detailee

United States Attorney's Office

for the District of Columbia

601 D Street NW

Washington, DC 20579

(202) 476-0319

Anthony.Mariano@usdoj.gov