

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

UNITED STATES OF AMERICA,)	
)	
v.)	No. 21-cr-00067 (ABJ)
MARK SIMON,)	
)	
Defendant.)	
_____)	

CONSENT MOTION TO CONTINUE STATUS HEARING

Mr. Mark Simon, through undersigned counsel, requests that this Honorable Court continue the status hearing currently set for May 3, 2021 at 2:00 p.m., and as grounds states:

1. On January 21, 2021, Mr. Simon was charged by criminal complaint with being on Restricted Buildings or Grounds in violation of 18 U.S.C. § 1752(a)(1) and (2); and Unlawful Activities on Capitol Grounds in violation of 40 U.S.C. § 51 04(e)(2)(D) and (G). *See* ECF No. 1.
2. On January 28, 2021, Mr. Simon was arrested in the Central District of California for those alleged offenses. He was released on his own recognizance, subject to conditions.
3. On February 2, 2021, the government filed an information charging Mr. Simon with Entering and Remaining in a Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(1); Disorderly and Disruptive Conduct in a Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(2); Disorderly Conduct in a Capitol Building or Grounds in violation of 40 U.S.C. § 5104(e)(2)(D); and Parading, Demonstrating, or Picketing in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(G). *See* ECF No. 5.
4. On February 3, 2021, Mr. Simon had his initial appearance in U.S. District Court for the District of Columbia and was arraigned on the information.

5. On February 22, 2021, the parties filed a joint motion for a status conference, which was granted. A status was set for March 1, 2021 at 11:00 a.m. before this Honorable Court.
6. Prior to March 1, 2021, undersigned counsel notified the Court and the Assistant United States Attorney, Brenda Johnson, that Mr. Simon had been arrested in California for a probation violation stemming from a state charge. Counsel understood that soon after his arrest, Mr. Simon was brought before his California state judge, found in violation of his probation conditions, and sentenced to 180 days of incarceration. Because Mr. Simon would still be serving his term of incarceration on March 1, 2021, he would not be present for the status hearing as currently scheduled.
7. On March 1, 2021, the parties proceeded with the status conference, waiving Mr. Simon's presence.
8. At that status conference, the parties set a new status date of May 3, 2021 at 2:00 p.m. with the understanding that undersigned counsel would work with the clerk's office to make Mr. Simon available via video conferencing from the Orange County Jail. Undersigned counsel was also instructed to inquire into making legal calls to Mr. Simon while incarcerated.
9. Since that time, undersigned counsel was able to register to receive legal calls from Mr. Simon at the Orange County Jail. However, the jail does not allow for incoming calls, and Mr. Simon's access to a phone is limited (he only gets 30 minutes per day out of his cell to make phone calls and that is between 2:00 p.m. and 10:00 p.m. PST). Additionally, some days Mr. Simon is locked down and has no out-of-cell time. Further, even if Mr. Simon did have better phone access, he would have no privacy talking to undersigned counsel since the phone is public and located in the day room of the jail.

Finally, even if undersigned counsel could make that limited phone contact, there is no reasonable probability that discovery can be substantially provided to him while he is incarcerated. Therefore, undersigned counsel fears that a status set for May 3, 2021 will yield little to no updates for the Court.

10. Mr. Simon is currently scheduled to be released from the Orange County Jail on May 23, 2021.
11. To provide a more substantive update to the Court as to the status of the case, Mr. Simon requests that his next status date be continued to June 2021.
12. Undersigned counsel has reached out to Assistant United States Attorney Brenda Johnson, and she consents to the continuance of the next status date.
13. Additionally, undersigned counsel and the United States agree that time between the last status date, March 3, 2021 and the new status date to be set in June, may be excluded from calculation under the Speedy Trial Act.

WHEREFORE, Mr. Simon asks this Honorable Court to continue the status hearing currently scheduled for May 3, 2021 at 2:00 p.m. to June 2021.

Respectfully submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

/s/

CARA HALVERSON
Assistant Federal Public Defender
625 Indiana Ave. NW, Ste. 550
Washington, D.C. 20004
(202) 208-7500
cara_halverson@fd.org

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ORDER

Before the Court is a Consent Motion to Continue Status Hearing. For the reasons set forth therein, it is hereby

ORDERED that the current status set for 2:00 p.m. on May 3, 2021 be continued to June _____, 2021 at _____ a/p.m.; and it is further

ORDERED that the time between March 3, 2021 and June _____, 2021 at _____ a/p.m. be excluded from calculation under the Speedy Trial Act.

DATE:

Amy Berman Jackson
United States District Judge