

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

UNITED STATES OF AMERICA

v.

DAVID C. MISH, JR.,

Defendant.

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Criminal No.: 21-CR-112 (CJN)

**GOVERNMENT’S MOTION FOR STATUS HEARING AND EXCLUSION
OF TIME UNDER THE SPEEDY TRIAL ACT**

The United States, by and through its attorney, the United States Attorney for the District of Columbia, hereby respectfully requests this Court to schedule a status hearing and exclude the time until that hearing from the calculation of time before which this matter must be brought to trial under the Speedy Trial Act. As grounds for this motion, the United States relies on the following points and authorities:

1. On January 15, 2021, the defendant was arrested and had an initial appearance in the United States District Court for the Eastern District of Wisconsin. The government did not seek the defendant’s detention, and he was released.

2. On January 22, 2021, an initial appearance was held before Magistrate Judge Harvey in the United States District Court for the District of Columbia. A preliminary hearing was scheduled for February 12, 2021. The time between January 22, 2021 and February 12, 2021 was excluded from calculation under the Speedy trial Act.

3. On February 11, 2021, the government filed an Information charging the defendant with 18 U.S.C. § 1752(a)(1) (Entering and Remaining in a Restricted Building); 18 U.S.C. §

1752(a)(2) (Disorderly and Disruptive Conduct in a Restricted Building); 40 U.S.C. § 5104(e)(2)(D) (Violent Entry and Disorderly Conduct in a Capitol Building); and 40 U.S.C. § 5104(e)(2)(G) (Parading, Demonstrating, or Picketing in a Capitol Building).

4. After the filing of the Information, the magistrate case number of 21-mj-64 was merged into Criminal Case No. 21-112, which was set before this Court.

5. No future date is currently set in the case. Accordingly, the government requests that a status hearing be set. Undersigned counsel e-mailed defense counsel on the evening of February 16, 2021, asking his position on the request for a status hearing and proposing a date the week of March 15, 2021. As of the time of this filing, no response has been received.

6. The government further requests that the Court make a finding that it is in the interests of justice that the time until the next status date be excluded from the Speedy Trial Act calculation, to allow additional time for the government to coordinate its discovery process for cases arising from the riot at the United States Capitol on January 6, 2021, and to provide the defense with at least informal discovery.¹ Counsel for the defendant informed undersigned counsel that the defense takes no position on the request to exclude time from the Speedy Trial Act calculation.

WHEREFORE, for the foregoing reasons, the United States respectfully requests that this Court enter an Order setting a future status hearing date and excluding from computation under the Speedy Trial Act the days until the next hearing in this case.

¹ It is the government's understanding that Standing Order No. 20-93, issued by Chief Judge Howell on December 17, 2020, also excludes time from the Speedy Trial Act in this case through March 15, 2021.

Respectfully submitted,

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UNITED STATES ATTORNEY
D.C. Bar No. 4444188

/s/ Christine M. Macey
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Dated: February 17, 2021

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a copy of the foregoing motion via electronic filing upon counsel for Defendant Mish, Tony Miles, Esq., on this 17th day of February, 2021.

/s/ Christine Macey
CHRISTINE MACEY
Assistant United States Attorney

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ORDER

Upon consideration of the government's Motion for Status Hearing and Exclusion of Time Under the Speedy Trial Act, it is hereby,

ORDERED, that the Motion is GRANTED; and it is hereby,

FURTHER ORDERED, that a status hearing is scheduled on the ____ of _____ 2021, at _____; and it is hereby,

FURTHER ORDERED, that the Court hereby finds that the ends of justice will be served by excluding time under the Speedy Trial Act, and that those ends of justice outweigh the interests of the Defendant and the public in a speedy trial, because it will provide the government additional time to continue coordinating its discovery process for cases arising from the January 6, 2021, riot at the United States Capitol; and it is hereby,

FURTHER ORDERED, that the time period from the ____ day of _____, 2021, and the ____ day of _____, 2021, shall be excluded from calculation under the Speedy Trial Act.

Date

CARL J. NICHOLS
United States District Judge