

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : CASE NO. 1:21-mj-00371
 :
 TRACI J. SUNSTRUM, :
 :
 Defendant. :

CONSENT MOTION TO EXCLUDE TIME UNDER SPEEDY TRIAL ACT

Pursuant to 18 U.S.C. § 3161 (The Speedy Trial Act), the parties in the above captioned case, by and through the undersigned Assistant United States Attorney, and through defense counsel, respectfully move this Court to continue the currently scheduled status conference and the 30-day time period for filing of the indictment or information by 60 days.

The parties submit that good cause exists and request that the indictment/information return date be continued and that time be excluded from the Speedy Trial clock for the reasons stated herein.

1. On April 13, 2021, the defendant was charged in a criminal complaint with knowingly entering or remaining in any restricted Capitol building or grounds without lawful authority.
2. The defendant was arrested in Western District of New York where she appeared for an initial appearance on May 19, 2021. Sunstrum was released with pretrial conditions.
3. Sunstrum appeared in the D.C. court on May 27, 2021 and waived a preliminary hearing.
4. This Court scheduled a status conference for July 26, 2021 and tolled the Speedy Trial Statute.
5. Without an extension, an indictment or information must be filed within 30 days of

the arrest. 18 U.S.C. § 3161(b).

6. The Speedy Trial Act permits the Court to extend the 30 day period between arrest and indictment if it finds that it would be unreasonable to expect the return within 30-days or because the facts upon which the grand jury must base its determination is unusual or complex. 18 U.S.C. § 3161(h)(7)(B)(iii).

7. The parties submit that there is good cause to extend the time for filing the indictment, and to exclude the delay from the Speedy Trial computation on a number of bases.

8. The parties submit that the ends of justice served by a continuance and extension outweigh the best interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The government and counsel for the defendant have conferred and are continuing to communicate in an effort to resolve this matter. The current restrictions on counsel, particularly those impacting the government's ability to communicate with witnesses due to the pandemic, have slowed this process.

9. As part of the "ends of justice" analysis the Court considers, "[w]hether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings within the time limits established by this section." 18 U.S.C. § 3161(h)(7)(B)(ii). In this case, it would be unreasonable to expect adequate preparation to file an indictment within 30 days. The United States has diligently been working to collect, review, and process the massive amount of discovery generated from the January 6th riot cases. However, the case presents significant logistical complexity, and the United States is considering additional possible charges beyond those contained in the complaint. Specifically, this case involves hours

of video footage; many different witnesses; and large amounts of records from various sources. Given the complexity of the case, the number of witnesses, the parties request an additional continuance so both parties can be prepared for the upcoming hearing. Further, the parties are in the process of negotiating, and the additional time that has been requested would facilitate possible pre-indictment resolution of these charges. The parties need at least another 60 days to prepare. Thus, the delay in filing the indictment is justified, as it would be unreasonable to expect the return and filing of the indictment within the period specified in section 18 U.S.C. § 3161(b) (within 30 days) because the facts upon which the grand jury must base its determination are unusually complex. *See* 18 U.S.C. § 3161(h)(7)(B)(iii). Moreover, failure to grant the extension of the time for indictment would be likely result in a miscarriage of justice. 18 U.S.C. § 3161 (h)(7)(B)(i).

10. Ms. Sunstrum will not be prejudiced by the requested continuance and extension in that she is not in custody and agrees that the time between this motion and the newly set indictment/information return date should be excluded under the Speedy Trial Act.

11. The parties agree that the complaint will remain in full force and effect through the new status conference date scheduled by the Court.

12. The parties agree that this stipulation and any order resulting therefrom shall not affect any previous order of pretrial detention or pretrial release.

13. The parties request that the currently scheduled status conference as well as the date by which an information or an indictment must be filed, be continued for another 60 days. The parties agree that “the ends of justice served by the granting of such continuance [will] outweigh the best interests of the public and the defendant in a speedy trial,” 18 U.S.C. § 3161(h)(7)(A), and the parties request an order to that end.

14. The parties agree that pursuant to 18 U.S.C. § 3161, the time from the initial appearance on May 27, 2021 and the new hearing date shall be excluded in computing the date for speedy trial in this case.

Respectfully submitted,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY

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| UNITED STATES OF AMERICA | : | |
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| TRACI J. SUNSTRUM, | : | |
| | : | |
| Defendant. | : | |

ORDER

The Court, having considered the representations of the United States and defense counsel regarding the potential plea, complexity of the case, the voluminous discovery, the ends of justice, and the need for a reasonable time necessary for effective preparation taking into account the exercise of due diligence, as well as the stipulations by defense counsel, and for good cause appearing, the Court makes the following findings:

1. On April 13, 2021, the defendant was charged in a criminal complaint with knowingly entering or remaining in any restricted Capitol building or grounds without lawful authority.
2. The defendant was arrested in Western District of New York where she appeared for an initial appearance on May 19, 2021. Sunstrum was released with pretrial conditions.
3. Sunstrum appeared in the D.C. court on May 27, 2021 and waived a preliminary hearing.
4. This Court scheduled a status conference for July 26, 2021 and tolled the Speedy Trial Statute.
5. Without an extension, an indictment or information must be filed within 30 days of the arrest. 18 U.S.C. § 3161(b).
6. The Speedy Trial Act permits the Court to extend the 30 day period between arrest

and indictment if it finds that it would be unreasonable to expect the return within 30-days or because the facts upon which the grand jury must base its determination is unusual or complex. 18 U.S.C. § 3161(h)(7)(B)(iii).

7. The parties submit that there is good cause to extend the time for filing the indictment, and to exclude the delay from the Speedy Trial computation on a number of bases.

8. The parties submit that the ends of justice served by a continuance and extension outweigh the best interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The government and counsel for the defendant have conferred and are continuing to communicate in an effort to resolve this matter. The current restrictions on counsel, particularly those impacting the government's ability to communicate with witnesses due to the pandemic, have slowed this process.

9. As part of the "ends of justice" analysis the Court considers, "[w]hether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings within the time limits established by this section." 18 U.S.C. § 3161(h)(7)(B)(ii). In this case, it would be unreasonable to expect adequate preparation to file an indictment within 30 days. The United States has diligently been working to collect, review, and process the massive amount of discovery generated from the January 6th riot cases. However, the case presents significant logistical complexity, and the United States is considering additional possible charges beyond those contained in the complaint. Specifically, this case involves hours of video footage; many different witnesses; and large amounts of records from various sources. Given the complexity of the case, the number of witnesses, the parties request an additional

continuance so both parties can be prepared for the upcoming hearing. Further, the parties are in the process of negotiating, and the additional time that has been requested would facilitate possible pre-indictment resolution of these charges. The parties need at least another 60 days to prepare. Thus, the delay in filing the indictment is justified, as it would be unreasonable to expect the return and filing of the indictment within the period specified in section 18 U.S.C. § 3161(b) (within 30 days) because the facts upon which the grand jury must base its determination are unusually complex. *See* 18 U.S.C. § 3161(h)(7)(B)(iii). Moreover, failure to grant the extension of the time for indictment would be likely result in a miscarriage of justice. 18 U.S.C. § 3161 (h)(7)(B)(i).

10. Ms. Sunstrum will not be prejudiced by the requested continuance and extension in that she is not in custody and agrees that the time between this motion and the newly set indictment/information return date should be excluded under the Speedy Trial Act.

11. The parties agree that the complaint will remain in full force and effect through the new status conference date scheduled by the Court.

12. The parties agree that this stipulation and any order resulting therefrom shall not affect any previous order of pretrial detention or pretrial release.

13. The parties request that the currently scheduled status conference as well as the date by which an information or an indictment must be filed, be continued for another 60 days. The parties agree that “the ends of justice served by the granting of such continuance [will] outweigh the best interests of the public and the defendant in a speedy trial,” 18 U.S.C. § 3161(h)(7)(A), and the parties request an order to that end.

Based on the foregoing findings, **IT IS HEREBY ORDERED:**

1. The status conference currently scheduled for July 26, 2021 is VACATED.
2. The ends of justice served by the granting of such a 60-day continuance and extension outweigh the best interests of the public and defendant in a Speedy Trial. 18 U.S.C. § 3161(h)(7)(A).
3. This case is unusual and complex due to the number of witnesses, volume of discovery, and the nature of the prosecution that it is unreasonable to expect adequate preparation for pretrial proceedings within the current time limit. 18 U.S.C. § 3161(h)(7)(B)(ii).
4. The ends of justice are also best served by granting an extension of the date for the indictment return. The Court specifically finds that it would be unreasonable to expect the indictment return within 30 days of arrest and that the facts upon which the grand jury must base its determination are unusual and complex. 18 U.S.C. § 3161(h)(7)(B)(iii).
5. Requiring an indictment or information within 30 days would deny counsel for the defendant and the United States Attorney the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161 (h)(7)(B)(iv).
6. Failure to grant the continuance of the extension of the time for indictment or information would be likely result in a miscarriage of justice and prevent a fair trial and grand jury session. 18 U.S.C. § 3161 (h)(7)(B)(i).
7. The Court has carefully balanced the need for the public and the defendant to have a speedy trial against the need for a fair trial, preliminary hearing, grand jury session, and adequate preparation and finds that the scales tip in favor of granting a continuance and extension.

8. Given the potential settlement, the voluminous discovery, the complex nature of the case, the ends of justice, and the need for a reasonable time necessary for effective preparation taking into account the exercise of due diligence, the Court find that the indictment return date be continued through the newly scheduled status conference of _____, with all time excluded under the Speedy Trial Act.

9. Accordingly, the time between May 27, 2021 (the date of the initial appearance in D.C.) and the newly scheduled status conference hearing of _____, is excluded from speedy trial computation for good cause.

DATED this _____ day of _____, 2021.

BY THE COURT:

ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE