

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

**UNITED STATES OF AMERICA** :  
 :  
 v. : **Crim. No. 21-CR-301 (TJK)**  
 :  
**STEPHEN HORN,** :  
 : *Defendant.* :

**JOINT MOTION TO CONTINUE STATUS CONFERENCE AND GOVERNMENT'S  
UNOPPOSED MOTION TO EXCLUDE TIME UNDER SPEEDY TRIAL ACT**

The United States of America, by and through the United States Attorney for the District of Columbia, and counsel for defendant Stephen Horn, respectfully move this Court to continue the status conference set for July 8, 2021, at 10:00 a.m. The government further moves the Court to exclude the period of the continuance from the computation of time under the Speedy Trial Act, which counsel for Horn does not oppose. In support of the joint motion and the government's unopposed motion, the parties now state the following:

1. On July 2, 2021, the government tendered a plea offer to Horn.
2. Horn is still considering the government's plea offer, and the parties anticipate it will take some time to determine whether a pretrial disposition is possible in this case.
3. A continuance of approximately 30 days will foster the parties' negotiations regarding a possible pretrial disposition.
4. The government has provided preliminary discovery and the most relevant discovery of which it is currently aware. Formal discovery will be provided further down the line in this case, and as described in the government's prior motion to continue and exclude time under the Speedy Trial Act (ECF No. 15), there is a large swath of potentially discoverable material,

including data of enormous size, that will take additional time for the government to organize and produce to the defense through a vendor.

5. The government also moves the Court to exclude the period from July 8, 2021, until the continuance date from the computation of time under the Speedy Trial Act, 18 U.S.C. § 3161, for the reasons the government articulated in the prior motion (ECF No. 15) and because the continuance will further continued plea negotiations. The government also requests the Court find that the ends of justice served by granting this continuance outweigh the best interests of the public and Horn in a speedy trial. Counsel for Horn does not oppose this motion to exclude time under the Speedy Trial Act.

WHEREFORE, for the foregoing reasons, the parties respectfully request that the Court GRANT this joint motion to continue the status conference, and the government requests that the Court grant its unopposed motion to exclude the period from July 8, 2021, until the next Court date from the computation of time under the Speedy Trial Act.

Respectfully submitted,

CHANNING D. PHILLIPS  
Acting United States Attorney  
D.C. Bar No. 415793

/s/ Marshall Ellis  
MARSHALL ELLIS  
Counsel for Stephen Horn  
N.C. Bar Number 47720  
252-335-0871, ext. 335  
mellis@hrem.com

BY: /s/ Seth Adam Meinero  
SETH ADAM MEINERO  
Trial Attorney  
Detailee  
D.C. Bar Number 976587  
United States Attorney's Office for the  
District of Columbia  
202-252-5847  
[Seth.Meinero@usdoj.gov](mailto:Seth.Meinero@usdoj.gov)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 6, 2021, I served a copy of this pleading on all parties to this matter through the Court's electronic case files system, and that Marshall Ellis, counsel for Stephen Horn, has authorized me to file this joint motion.

*/s/ Seth Adam Meinero*

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SETH ADAM MEINERO

Trial Attorney

Detailer

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**ORDER**

Based upon the representations in the Joint Motion to Continue and the Government's Unopposed Motion to Exclude Time under the Speedy Trial Act, and upon consideration of the entire record, the Court makes the following findings:

Defendant is charged in a four-count information with violations of 18 U.S.C. § 1752(a)(1) and (a)(2) and 40 U.S.C. § 5104(e)(2)(C) and (D) that occurred at the United States Capitol on January 6, 2021. As articulated in the Government's prior Motion to Continue (ECF No. 15), the investigation and prosecution of the attack on the Capitol (hereinafter the Capitol Attack) on January 6, 2021, will likely be one of the largest in American history, both in terms of the number of defendants prosecuted and the nature and volume of the evidence. This investigation continues and the Government expects that additional individuals will be charged. As the Capitol Attack investigation is still ongoing, the number of defendants charged and the volume of potentially discoverable materials will only continue to grow. In short, even in cases involving a single defendant, the volume of discoverable materials is likely to be significant.

Moreover, the Government continues to develop a system for storing and searching, producing and/or making available voluminous materials accumulated, and ensuring that such system will be workable for both the Government and defense.

The Government and counsel for the Defendant have conferred on discovery issues and a potential disposition in this matter, and are still in discussions about forthcoming discovery and a potential pretrial resolution. As noted in the Joint Motion, the Government has already provided some discovery to the Defendant.

In this case, an ends-of-justice continuance is warranted under 18 U.S.C. § 3161(h)(7)(A) based on the factors described in 18 U.S.C. § 3161(h)(7)(B)(i)(ii) and (iv).

In sum, due to the number of individuals currently charged across the Capitol Attack investigation and the nature of those charges, the ongoing investigation of many other individuals, the volume and nature of potential discovery materials, and the reasonable time necessary for effective preparation by all parties taking into account the exercise of due diligence, the failure to grant such a continuance in this proceeding would be likely to make a continuation of this proceeding impossible, or result in a miscarriage of justice. Accordingly, the ends of justice served by granting a request for a continuance outweigh the best interest of the public and the defendant in a speedy trial.

In addition, a continuance is warranted because a continuance will provide additional time for the parties to continue talks aimed at a pretrial disposition.

Moreover, as set forth in this Court's Standing Order No. 21-10, the ongoing Coronavirus Disease 2019 (COVID-19) pandemic has also led to a variety of delays in the resumption of criminal trials in this District. *See In Re: Limited Resumption of Criminal Jury Trials in Light of Current Circumstances Relating to the COVID-19 Pandemic*, Standing Order No. 21-10 (BAH) (Mar. 5, 2021). Based on the findings in that Standing Order, which are incorporated herein, at least until August 31, 2021, no more than three trials can proceed in this District at any given time. The trials that will be prioritized are those in which defendants have been detained, that had

standing trial dates before the pandemic, or that involve few witnesses who need to travel from out-of-town. It is not possible, considering the health and safety measures outlined in Standing Order No. 21-10, for this case, involving an out-of-custody Defendant to proceed to trial in the next 60 days.

Therefore, it is this \_\_\_\_\_ day of July, 2021,

**ORDERED** that the Joint Motion to Continue is hereby GRANTED; it is further

**ORDERED** that this proceeding is continued to \_\_\_\_\_, 2021, at \_\_\_\_\_; and it is further

**ORDERED** that the time period from the date of this Order through and including the date of the next hearing is hereby excluded from the computation of time within which trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*

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THE HONORABLE TIMOTHY J. KELLY  
UNITED STATES DISTRICT JUDGE