

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

UNITED STATES OF AMERICA

v.

GLEN MITCHELL SIMON,

Defendant.

:
:
:
:
:
:

Case No. 21-cr-346 (BAH)

**UNITED STATES' UNOPPOSED MOTION TO CONTINUE CHANGE OF PLEA
HEARING AND TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT**

The United States of America hereby moves this Court for a 60-day continuance of the change of plea hearing scheduled for August 18, 2021, and to exclude the time within which the trial must commence 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 interest of the public and the defendant 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 its motion, the government states as follows:

FACTUAL BACKGROUND

Defendant is charged via information with violations of 18 U.S.C. §§ 1752(a)(1) (Entering and Remaining in a Restricted Building) and (a)(2) (Disorderly and Disruptive Conduct in a Restricted Building) and 40 U.S.C. §§ 5104(e)(2)(D) (Disorder Conduct in a Capitol Building) and (G) (Parading, Demonstrating, or Picketing in a Capitol Building). These charges stem from the Defendant's conduct on January 6, 2021, when he participated as part of a collective mob in the attack on the U.S. Capitol by unlawfully entering the U.S. Capitol building and remaining for at least 42 minutes.

Defendant was arrested on May 5, 2021, and was released with specific conditions as set by the Court. On May 14, 2021, the Court held the first status conference in this matter and

scheduled a second status conference for June 25, 2021, that was later continued to September 24, 2021. In granting the continuance, the Court also excluded time under the Speedy Trial Act through September 24, 2021.

On August 10, 2021, the government notified the Court that Defendant had accepted the government's plea offer and requested that the September 24, 2021, status conference be converted to a change of plea hearing. On the same date, the Court scheduled the change of plea hearing for August 18, 2021. Subsequently, the government discovered additional evidence which warrants further investigation. This newly discovered evidence has been provided to defense counsel. Defense counsel needs additional time to review this evidence with her client. Therefore, the government requests a 60-day continuance of the August 18, 2021, change of plea hearing and to exclude time under the Speedy Trial Act during this time. Defendant does not oppose the government's motion and consents to exclude this time under the Speedy Trial Act.

ARGUMENT

Pursuant to the Speedy Trial Act, an indictment charging an individual with the commission of an offense generally must be filed within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges. 18 U.S.C. § 3161(a). Further, as a general matter, in any case in which a plea of not guilty is entered, a defendant charged in an information or indictment with the commission of an offense must commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. 18 U.S.C. § 3161(c)(1).

Section 3161(h) of the Speedy Trial Act sets forth certain periods of delay which the Court

must exclude from the computation of time within which a trial must commence. As is relevant to this motion for a continuance, pursuant to subsection (h)(7)(A), the Court must exclude:

Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

18 U.S.C. § 3161(h)(7)(A). This provision further requires the Court to set forth its reasons for finding that any ends-of-justice continuance is warranted. *Id.* Subsection (h)(7)(B) sets forth a non-exhaustive list of factors that the Court must consider in determining whether to grant an ends-of-justice continuance, including:

- (i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.
- (ii) Whether 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 or for the trial itself within the time limits established by this section.
- ...
- (iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

18 U.S.C. § 3161(h)(7)(B)(i)(ii) and (iv). Importantly, “[i]n setting forth the statutory factors that justify a continuance under subsection (h)(7), Congress twice recognized the importance of adequate pretrial preparation time.” *Bloate v. United States*, 559 U.S. 196, 197 (2010) (citing § 3161(h)(7)(B)(ii), (B)(iv)).

An interests-of-justice finding is within the discretion of the Court. *See, e.g., United States v. Rojas-Contreras*, 474 U.S. 231, 236 (1985); *United States v. Hernandez*, 862 F.2d 17, 24 n.3 (2d Cir. 1988). “The substantive balancing underlying the decision to grant such a continuance is entrusted to the district court’s sound discretion.” *United States v. Rice*, 746 F.3d 1074 (D.C. Cir. 2014).

In this case, an ends-of-justice continuance is warranted under 18 U.S.C. § 3161(h)(7)(A). A 60-day continuance of the plea hearing will allow both parties additional time to review the newly-uncovered evidence, will allow the government time to determine whether additional steps are warranted, and will conserve judicial resources. As mentioned above, Defendant does not oppose the continuance and consents to the exclusion of time under the Speedy Trial Act.

WHEREFORE, the government respectfully requests that this Court grant the motion for a 60-day continuance of the change of plea hearing scheduled for August 18, 2021, and that the Court exclude the time within which the trial must commence 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 Defendant 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,

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

By:



Laura E. Hill
Trial Attorney, detailed to the
District of Columbia
NV Bar 13894
175 N Street, NE
Washington, D.C. 20002
(202) 598-3962
Laura.E.Hill@usdoj.gov

Amy Larson
Assistant United States Attorney
555 4th Street, NW
Washington, D.C. 20530
(202) 252-7863
Amy.Larson@usdoj.gov

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

UNITED STATES OF AMERICA

v.

GLEN MITCHELL SIMON,

Defendant.

:
:
:
:
:
:
:

Criminal No. 21-cr-346 (BAH)

ORDER

Based upon the representations in the United States' Unopposed Motion to Continue and to Exclude Time Under the Speedy Trial Act, and upon consideration of the entire record, the Court makes the following findings:

Defendant is charged via information with offenses related to crimes that occurred at the United States Capitol on January 6, 2021. On August 10, 2021, the government notified the Court that Defendant had accepted the government's plea offer. On the same date, the Court scheduled the change of plea hearing for August 18, 2021. Subsequently, the government discovered additional evidence which warrants further investigation. This newly discovered evidence has been provided to defense counsel. Defense counsel needs additional time to review this evidence with her client.

Due to the above-mentioned facts, 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).

Therefore, it is this _____ day of _____, 2021,

ORDERED that the United States' Unopposed Motion to Continue and to Exclude Time Under the Speedy Trial Act, 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.*

THE HONORABLE BERYL A. HOWELL
UNITED STATES DISTRICT JUDGE