

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

UNITED STATES OF AMERICA

v.

ANDREW ALAN HERNANDEZ,

Defendant.

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Criminal No. 21-cr-445 (CKK)

ORDER

Based upon the representations in the United States' [25] Consent 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 indictment with offenses related to crimes that occurred at the United States Capitol on January 6, 2021.

The investigation and prosecution of the Capitol Attack 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. Over 600 individuals have been charged to date in connection with the Capitol Attack. While most of the cases have been brought against individual defendants, the government is also investigating conspiratorial activity that occurred prior to and on January 6, 2021. The spectrum of crimes charged and under investigation in connection with the Capitol Attack includes (but is not limited to) trespass, engaging in disruptive or violent conduct in the Capitol or on Capitol grounds, destruction of government property, theft of government property, assaults on federal and local police officers, firearms offenses, civil disorder, obstruction of an official proceeding, possession and use of destructive devices, and conspiracy.

On September 21, 2021, the government filed a memorandum regarding the status of discovery (as of September 12, 2021). The Status Memorandum largely pertained to the

production of discovery from voluminous sets of data that the government collected in its investigation of the Capitol Breach cases, among which may be interspersed information the defense may consider material or exculpatory

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). As described above, the Capitol Attack is likely the most complex investigation ever prosecuted by the Department of Justice. Developing a system for storing and searching, producing and/or making available voluminous materials accumulated across hundreds of investigations, and ensuring that such system will be workable for both the government and defense, will take time.

In sum, due to the number of individuals currently charged across the Capitol Attack investigation and the nature of those charges, the on-going investigation of many other individuals, the volume and nature of potentially 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.

Therefore, it is this 23rd day of September 2021,

ORDERED that the United States' Consent Motion to Continue and to Exclude Time Under the Speedy Trial Act, is hereby GRANTED; it is further

ORDERED that the status hearing currently scheduled for September 30, 2021 is CONTINUED to **NOVEMBER 22, 2021**, at **1:30 p.m.** 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 an indictment and trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*

Based upon this exclusion, the Court has calculated that Defendant's new 70-day deadline is January 31, 2022.

SO ORDERED.

Date: September 23, 2021

/s/

COLLEEN KOLLAR-KOTELLY
UNITED STATES DISTRICT COURT JUDGE