

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

UNITED STATES OF AMERICA

v.

AARON JAMES MILEUR,

Defendant.

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Case No. 1:21-CR-248-RDM

**JOINT STATUS REPORT AND MOTION TO CONTINUE
AND EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT**

The United States of America, by and through undersigned counsel, and defendant AARON JAMES MILEUR, by and through his counsel Eugene Ohm, Federal Public Defender for the District of Columbia, hereby file a joint status report, as directed by the Court, to provide updates as to discovery, next steps in the case, and the Speedy Trial Act.

I. STATEMENT OF FACTS

On January 6, 2021 starting at around 1:00 pm, proceedings were under way at the U.S. Capitol in a joint session of the United States Congress to certify the vote count of the Electoral College of the 2020 Presidential Election. Those proceedings were suspended after around 2:00 pm, when a crowd forced entry into the U.S. Capitol including by breaking windows and by assaulting members of the U.S. Capitol Police. At that time, the building, to which access is restricted only to authorized people with appropriate identification, was closed to members of the public and restricted with temporary and permanent barricades.

Defendant Mileur is charged with violations of Title 18, United States Code, Section 1752(a)(1) and (2) and Title 40, United States Code, Section 5104(e)(2)(D) and (G) for his alleged unlawful entry into the Capitol building on January 6, 2021, and disorderly conduct with the intent to disrupt the proceedings. He was charged by complaint on March 9, 2021 (Doc.

No. 1), and arrested in Anchorage, Alaska on March 16, 2021 (Doc. No. 10). At his initial appearance in the District of Alaska, Mileur waived an identity hearing and consented to appear in the District of Columbia, where these charges are pending. (Doc. 19, at 10). After his arrest but before Mileur appeared in this district, he was charged by Information with the same four offenses. (Doc. No. 5) (filed March 24, 2021).

Mileur's initial appearance in the District of Columbia took place on March 29, 2021, and his arraignment on the Information was held on April 1, 2021. As the parties have been producing and reviewing discovery and otherwise preparing the case, the Court has held several status conferences. The time within which trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, was found to be excluded in the interests of justice from March 29 to April 1; then to April 14; then May 12; then August 3; and finally to October 5.

II. STATUS OF DISCOVERY

With respect to the investigation of this particular defendant, the United States produced targeted discovery to Mileur's counsel on April 20, 2021, and May 12, 2021, which included reports of interviews and other evidence collected in relation to the investigation of defendant Mileur. (Doc. No. 26).

On August 3, 2021, the United States filed a memorandum detailing the status of discovery efforts relating to the massive amount of data and materials arising from the investigation of the U.S. Capitol breach on January 6, 2021, including this case and hundreds of similarly-situated defendants charged in this District. (Doc. No. 23.) Since August 3, the United States has made further progress in implementing its global discovery plan. Those developments are detailed in the two memoranda documenting the status as of August 23, 2021 (Doc. No. 25, Exhibit A), and September 14, 2021 (Doc. No. 25, Exhibit B) (both filed September 30, 2021). As detailed there, the discovery materials made available and to be made available in the future

to this defendant (and to his similarly-situated defendants charged with crimes arising from the January 6, 2021 Capitol breach) are voluminous, and the United States is making substantial progress in its diligent efforts to provide materials to the defense using platforms that will allow for their effective review.

III. PROPOSED NEXT STEPS AND SPEEDY TRIAL ACT

The parties are diligently working to prepare this case and produce and review discovery. Despite these diligent efforts, for the reasons stated here and in the discovery status memoranda referenced above, the parties agree that additional time is needed for effective preparation of the case and that a continuance is needed to allow for adequate preparation in this unusual and complex case and to serve the interests of justice. 18 U.S.C. § 3161(h)(7)(A); (B)(i)(ii) and (iv). As outlined in the status memoranda filed by the government (Doc. Nos. 23, 25), the January 6 attack on the Capitol is likely the most complex investigation ever prosecuted by the Department of Justice, and effective production of discovery materials is underway but will take additional time.

Accordingly, the parties request that the Court order that a joint status report shall be filed within 60 days, no later than December 3, 2021, in which the parties will provide an update to the Court as to the status of discovery, proposed next steps, and the Speedy Trial Act. In addition, the parties request that the Court set a status hearing for an additional 60 days from that time, on or about February 4, 2022, which hearing may be advanced or continued in the interests of justice as warranted by the circumstances to be outlined in the December status report. Finally, the parties request that the Court find the time period from October 5, 2021 through and including February 4, 2022 (or whatever date the Court sets the next hearing) be excluded from the computation of time within which trial must commence under the Speedy Trial Act.

IV. CONCLUSION

For the foregoing reasons, the parties request that the Court order a joint status report be filed by December 3, 2021, that a status conference be set for February 4, 2022, or another date convenient to the Court, and that the time within which trial must commence be tolled from October 5, 2021, through February 4, 2022 (or whatever date the Court sets the next hearing).

Respectfully submitted,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY
D.C. Bar No.415793

/s/ Emily Allen
EMILY W. ALLEN
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CERTIFICATE OF SERVICE

On this 1st day of October 2021, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

/s/ *Emily Allen*

Emily W. Allen
Assistant United States Attorney

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Case No. 1:21-CR-248-RDM

**ORDER TO CONTINUE STATUS REPORT AND
EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT**

Based upon the representations in the Joint Status Report and Motion to Continue and Exclude Time Under the Speedy Trial Act, and upon consideration of the entire record including the memoranda of the United States relating to the status of discovery in this case (Doc. No. 23, 25), the Court makes the following findings:

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). The investigation of the events of January 6, 2021, at the United States Capitol is likely the most complex 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. Even after a system generally agreeable to the government and the Federal Public Defender is designed and implemented, likely through the use of outside vendors, it will take time to load, process, search and review discovery materials. Further adding to production and review times, certain sensitive materials may require redaction or restrictions on dissemination, and other materials may need to be filtered for potentially privileged information before they can be reviewed by the prosecution.

In sum, due to the number of individuals currently charged in relation to these events, 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 ____ day of _____, 2021,

ORDERED that the Joint Motion to Continue and Exclude Time Under the Speedy Trial Act is hereby GRANTED; it is further

ORDERED that the parties shall file a joint status report updating the Court as to the status of discovery, proposed next steps, and the Speedy Trial Act, not later than December 3, 2021, at noon; it is further

ORDERED that a status conference shall be held in this matter on February 4, 2022; and it is further

ORDERED that the time period from October 5, 2021, through and including the date of the next status conference, February 4, 2022, 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 RANDOLPH D. MOSS
UNITED STATES DISTRICT JUDGE