

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA : CASE NO. 1:21-MJ-00030
v. : HON. KAREN L. LITKOVITZ
JUSTIN STOLL, :
Defendant. :

JOINT MOTION TO CONTINUE PRELIMINARY HEARING, EXTEND TIME
FOR FILING INDICTMENT OR INFORMATION, AND EXCLUDE TIME
UNDER THE SPEEDY TRIAL ACT

The United States of America and defendant Justin Stoll respectfully request that the Court continue the preliminary hearing in this matter until October 29, 2021, or as soon thereafter as is convenient for the Court. The parties also jointly move to extend through November 12, 2021, the deadline for filing an indictment or information, as well as for a finding that the requested extension period is excluded under the Speedy Trial Act.

BACKGROUND

A. Procedural History

Stoll was arrested on a federal arrest warrant on January 15, 2021, and made his initial appearance before the Court on the same day to answer to a complaint charging him with Interstate Threats and Witness Tampering by Threat. Stoll was released on bond, and a preliminary hearing was set for January 29, 2021.

Since that time, upon the parties' stipulations and for good cause, the Court has continued the preliminary hearing and extended the deadline for filing an indictment or information several times. (*See* Docs. 14, 17, 22, & 25.) Each time, the Court also ordered that the extension period be excluded under the Speedy Trial Act. (*See id.*)

Most recently, the Court continued the preliminary hearing until August 31, 2021, and extended through September 10, 2021, the deadline for filing an indictment or information.

(Doc. 25.)

Since the filing of the complaint, the parties have engaged in pre-indictment discovery discussions and plea negotiations that may lead the defendant to waive the preliminary hearing. To facilitate those ongoing discussions, the parties now respectfully request that the Court continue the preliminary hearing until October 29, 2021; extend through November 12, 2021, the deadline for filing an indictment or information; and exclude time under the Speedy Trial Act.

DISCUSSION

A. There is good cause to extend the time limit for a preliminary hearing.

Preliminary hearings generally must be held “within a reasonable time, but no later than 14 days after the initial appearance if the defendant is in custody and no later than 21 days if not in custody.” Fed. R. Crim. P. 5.1(c). Where the defendant consents, however, the Court may for good cause extend the time limits for a preliminary hearing one or more times. Fed. R. Crim. P. 5.1(d).

Stoll consents to a continuation of his preliminary hearing because the parties are engaged in pre-indictment discovery discussions and plea negotiations.¹ These discussions and negotiations will not conclude before August 31, 2021, but they may lead Stoll to waive the preliminary hearing. Accordingly, the parties submit that there is good cause to continue Stoll’s preliminary hearing to October 29, 2021.

¹ This motion is supported by a concurrently filed Waiver of Timely Indictment/Information. Counsel for the defendant affirms that, although the Waiver shows only a checkmark symbol, the defendant digitally signed the Waiver.

B. The parties request that the Court extend the deadline for indictment and exclude time under the Speedy Trial Act.

The parties request that the Court order that the deadline for filing an indictment or information be extended through November 12, 2021. The parties also request that, for good cause, the extension period be excluded under the Speedy Trial Act.

This Court may grant a continuance under the Speedy Trial Act where 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). Any period of delay resulting from [such] a continuance shall be “excluded in computing the time within which an information or indictment must be filed.” *Id.*

When evaluating whether to grant a continuance under § 3161(h)(7)(A), the Court shall consider, among other factors, whether the “failure to grant such a continuance in the proceeding would . . . result in a miscarriage of justice,” 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.” *Id.* § 3161(h)(7)(B)(i), (iv).

As noted above, the parties are actively engaged in discovery discussions and plea negotiations. The government recently obtained a forensic analysis of one of the defendant’s electronic devices, which the government intends to produce promptly. Defense counsel will require additional time to review this discovery and discuss it with the defendant. The parties jointly submit that granting a continuance will allow counsel for the defendant and for the government the reasonable time necessary for effective preparation, taking into account due diligence, and that a miscarriage of justice would result if the parties were denied additional time to obtain, review, and confer about discovery relevant to the appropriate disposition of this matter.

CONCLUSION

For the foregoing reasons, the parties respectfully request that the deadline to file an indictment or information be extended up to and including November 12, 2021, and that all delay resulting from this continuance be excluded in computing the time within which an information or an indictment must be filed. The parties also request that, for good cause shown, the preliminary hearing in this matter be continued to October 29, 2021, or as soon thereafter as is convenient for the Court.

Respectfully submitted:

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miscarriage of justice, in that the parties desire and need additional time to review and discuss discovery, including additional discovery that the government expects to produce shortly, and to continue plea negotiations.

Accordingly, the period specified in 18 U.S.C. § 3161(b), within which the United States must file an indictment or information relative to the current charges in this matter, is hereby extended up to and including November 12, 2021. The time period from September 10, 2021, up to and including November 12, 2021, shall, in addition to all other excludable time, be excluded in computing the time within which an indictment or information relative to the charge(s) in this matter must be filed.

Date: **Aug 12, 2021**


Karen L. Litkovitz
United States Magistrate Judge

