

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

UNITED STATES OF AMERICA

vs.

NOLAN B. COOKE

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No. 1:21-mj-00143-RMM-1

**AGREED MOTION TO CONTINUE STATUS HEARING
AND TO EXCLUDE TIME UNDER SPEEDY TRIAL ACT**

**TO THE HONORABLE ROBIN M. MERIWEATHER, UNITED STATES DISTRICT
JUDGE FOR THE DISTRICT OF COLUMBIA:**

NOW COMES NOLAN B. COOKE, Defendant in the above-entitled and numbered cause, by and through his undersigned Counsel, Donald H. Flanary, III., and respectfully moves to continue the status hearing scheduled for September 3, 2021 for at least 60 days and to exclude time under the Speedy Trial Act, and in support thereof Defendant would respectfully show this Honorable Court as follows:

I.

Defendant in this case stands charged by Complaint with (1) Acts during civil disorder in violation of Title 18 U.S.C. § 231(a)(3); (2) Entering/Remaining on Restricted Buildings or Grounds & Disorderly/Disruptive Conduct in or near a Restricted Building or Grounds in violation of Title 18 U.S.C. § 1752(a)(1) and (2); and (3) Unlawful Activities on Capitol Grounds in violation of Title 40 U.S.C. § 5104(e)(2)(D).

II.

The Government has been working with Defense Counsel to voluminous provide pre-indictment discovery in this case. The parties hope to be able to negotiate a plea agreement that would obviate the need for an indictment or trial but require additional time for the production and

review of discovery and to engage in discussions. Continuing the status hearing currently scheduled for September 3, 2021, for at least 60 days will provide the parties with additional time for discovery production and review and to engage in discussions.

The Speedy Trial Act requires that the government file an information or indictment against a defendant within 30 days of arrest. 18 U.S.C. § 3161(b). However, the Act excludes any period of delay when a judge grants a continuance and finds 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). When granting an ends-of-justice continuance, the Court must “set[] forth, in the record of the case, either orally or in writing, its reasons for [that] finding.” *Id.*

Here, the exclusion of time through the 60 days best serves the interests and ends of justice and outweighs the interests of the public and the defendant in a speedy trial because excluding such time will afford the defense the opportunity to engage in pre-indictment plea discussions with the government and to continue reviewing informal discovery. The Government is agreed to this motion.

III.

WHEREFORE, PREMISES CONSIDERED, the parties respectfully request that the Court continue this matter for at least 60 days and exclude time through and including that date, for purposes of any computation under the Speedy Trial Act and for other such relief that this Honorable Court deems just and right.

Respectfully Submitted,

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BY: /s/ Donald H. Flanary, III.
Donald H. Flanary, III.
State Bar No. 24045877

ATTORNEY FOR DEFENDANT,
Nolan B. Cooke

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2021, a true and exact copy of the above and foregoing Motion was electronically sent *via* CM/ECF to Jolie Zimmerman, Assistant United States Attorney.

/s/ Donald H. Flanary, III.
Donald H. Flanary, III.

CERTIFICATE OF CONSULTATION

This is to certify that Undersigned Counsel conferred with the Assistant United States Attorney regarding this motion and:

 X She does not oppose it.

 She does oppose it.

 Our attempts to resolve it were unsuccessful.

 Counsel were able to agree regarding the motion as follows: _____

 Counsel's attempt to contact the Government was unsuccessful.

/s/ Donald H. Flanary, III.
Donald H. Flanary, III.

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ORDER ON AGREED MOTION TO CONTINUE STATUS HEARING
AND TO EXCLUDE TIME UNDER SPEEDY TRIAL ACT

Upon consideration of Defendant’s Agreed Motion to Continue Status and Exclude Time Under the Speedy Trial Act, it is this _____ day of _____, 2021, hereby

ORDERED that the motion is **GRANTED**; it is further

ORDERED that the status hearing scheduled in this matter for September 3, 2021, is continued for 60 days for good cause; it is further

ORDERED that the time from September 3, 2021 through the 60 days is excluded for purposes of any computation under the Speedy Trial Act, 18 U.S.C. § 3161; the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial because such time will afford the defense the opportunity to engage in pre-indictment plea discussions with the government and to review informal discovery.

HONORABLE ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE