

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

UNITED STATES OF AMERICA :
 :
 v. : **Criminal No. 21-cr-445 (CKK)**
 :
 ANDREW ALAN HERNANDEZ, :
 :
 Defendant. :

ORDER

Based upon the representations in the parties' [34] Joint 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. The government filed additional status reports on October 21, 2021 and November 16, 2021 regarding its continuing efforts to produce to defense voluminous discovery in this matter. In addition, the parties represent that, pursuant to the Court's [30] Order, the government has provided defendant with materials protected under Rule 6(e) of the Federal Rules of Criminal Procedure.

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. In addition, the parties have indicated that they need additional time to discuss possible disposition of this matter.

Therefore, it is this 19th day of January 2022,

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

ORDERED that *counsel for Defendant shall obtain and file as soon as practicable a Speedy Trial waiver, signed by Defendant; and it is further*

ORDERED that the status hearing currently scheduled for January 24, 2022 is **CONTINUED** to the 25th day of March 2022, at 10:00 a.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.* Taking into account this continuance, the Court has calculated that Defendant's new 70-day deadline is June 3, 2022.

/s/

COLLEEN KOLLAR-KOTELLY
UNITED STATES DISTRICT COURT JUDGE