

**United States District Court for the District of Columbia**

**United States of America**

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v.

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**No. 1:21-CR-00032-DLF-1**

**Guy Wesley Reffitt**

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**Response to Government's Motion to Vacate Trial Date and Continue Trial,  
and to Exclude Time under the Speedy Trial Act**

The government has moved to vacate the trial date of November 15, 2021 and continue trial to an uncertain date, and to exclude sixty days from the calculation of time under the Speedy Trial Act. Doc. 36. The Court has directed defendant to respond. Min. Ord. Oct. 4, 2021.

**I. The Court Should Either Deny the Government's Motion or in the Alternative Grant the Defendant's Motion for Change of Venue.**

Mr. Reffitt has not waived the requirements of the Speedy Trial Act (18 U.S.C. § 3161, *et seq.*) or Local Criminal Rule 45.1. In fact, he has asserted his right to a speedy trial. U.S. Const. amend. VI.

Since January 19, 2021, Mr. Reffitt has been held in custody, unable to work to support his family. Doc. 5. He requires medication for anxiety, high blood pressure, and high cholesterol. According to the Centers for Disease Control, high blood pressure is a factor that creates an increased risk for severe illness from the virus that causes COVID-19. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (Last accessed Apr. 14, 2021).

While in the government's custody and care, Mr. Reffitt had to be hospitalized

for three days in intensive care, because he was not given his prescribed medication. Soon after, the COVID-19 pandemic hit. Much of the time at D.C. Jail has been in solitary confinement, because of how that facility has responded to the the COVID-19 pandemic. See <https://www.washingtonpost.com/dc-md-va/2021/04/23/dc-jail-covid-lockdown-officials/> (Last accessed June 28, 2021).

Cases arising from January 6<sup>th</sup> have added to this District's docket more than double the total number of new criminal cases filed here all of last year. <https://wtop.com/dc/2021/09/jan-6-trials-slowed-by-mounting-evidence-in-us-capitol-riot/> (Last accessed Oct. 8, 2021). The Court's ability to try cases is further constrained by limitations the court has put on trials because of the coronavirus pandemic. See Stdg. Ord. 21-47.

Mayor Bowser has extended the Public Emergency (<https://wtop.com/dc/2021/10/mayor-extends-dcs-covid-19-public-emergency-to-2022/>) (Last accessed Oct. 8, 2021). Considering that the Court has relied in part for the limitations that it has put on trials because of the coronavirus pandemic (Stdg. Ord. 21-47), the Court's ability to try cases is likely to remain constrained. The Court has continued the limitations eight times. Stdg. Ords. 20-9, 20-19, 20-29, 20-62, 20-68, 20-89, 20-93, 21-10, and 21-47.

Considering the docket conditions in the District of Columbia, the Court might still end up continuing trial over Mr. Reffitt's objection, even if it denies the government's Motion for continuance.

**II. Mr. Reffitt Would Consent to the Exclusion of Time Necessary to Transfer Trial to the Eastern District of Texas, Sherman Division.**

Also before the Court is Mr. Reffitt's Motion for Change of Venue. Doc. 37. The docket in the Eastern District of Texas is not so constrained. After continuing all jury trials from March 16 through May 1, 2020, the Eastern District of Texas terminated that constraint on May 31, 2020. *Compare* Gen'l Ord. 20-03 with Gen'l Ord. 20-09. <https://txed.uscourts.gov/?q=covid19-general-orders> (Last accessed Oct. 8, 2021).

Mr. Reffitt would probably get a trial there before he would get one here, even after the time necessary to transfer his case. Granting the defendant's Motion for Venue would also effectively give the government a *de facto* continuance.

*/s/ William L. Welch, III*

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(Appointed by this Court)

**Certificate of Service**

I hereby certify that on this 8<sup>th</sup> day of October 2021, a copy of the foregoing Response to Government's Motion to Vacate Trial Date and Continue Trial, and to Exclude Time was delivered electronically to Mr. Jeffrey S. Nestler (jeffrey.nestler@usdoj.gov) and Ms. Risa Berkower (risa.berkower@usdoj.gov), Office of the United States Attorney, 555 Fourth Street, NW, Washington, DC 20530.

*/s/ William L. Welch, III*

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