

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

UNITED STATES OF AMERICA §
§
VS. §
§
SAMUEL CHRISTOPHER MONTOYA §

CASE NO. 1:21-cr-00336-JDB-1

**UNOPPOSED MOTION TO CONTINUE STATUS HEARING FOR ONE WEEK
AND TO EXCLUDE TIME UNDER SPEEDY TRIAL ACT**

**TO THE HONORABLE JOHN D. BATES, SENIOR UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT OF COLUMBIA:**

NOW COMES SAMUEL CHRISTOPHER MONTOYA, 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 Monday, September 12, 2022, to either Friday, September 9, 2022, after 11:00 a.m. EST or to Monday, September 19, 2022, after 11:00 a.m. EST and to exclude time under the Speedy Trial Act. For good cause and in support thereof, Defendant would respectfully show this Honorable Court as follows:

I.

Defendant in this case stands charged by Information with Count One: Entering/Remaining on Restricted Buildings or Grounds in violation of Title 18 U.S.C. § 1752 (a)(1); Count Two: Disorderly/Disruptive Conduct in or near a Restricted Building or Grounds in violation of Title 18 U.S.C. § 1752 (a)(2); Count Three: Disorderly Conduct in a Capitol Building in violation of Title 40 U.S.C. § 5104 (e)(2)(D); Count Four: Impeding Passage Through the Capitol Grounds or Buildings in violation of Title 40 U.S.C. § 5104(e)(2)(E); and Count Five: Parading, Demonstrating, or Picketing in a Capitol Building in violation of Title 40 U.S.C. § 5104 (e)(2)(G).

II.

A continuance is requested because Counsel for the Government is looking into potential additional discovery that was recently requested by the Defendant. A continuance is also requested because Counsel for Defendant is traveling with limited internet connectivity and therefore unavailable from September 12-16, 2022. Continuing the status hearing currently scheduled for September 12, 2022, to either Friday, September 9, 2022, after 11:00 a.m. EST or to Monday, September 19, 2022, after 11:00 a.m. EST will provide the parties with additional time for discovery production and to review and to engage in plea negotiation discussions. (It is important that any reset be scheduled after 11:00 a.m. EST because Counsel for the Government resides in San Francisco, California, and is on Pacific Standard Time.)

The Speedy Trial Act requires that, in any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. 18 U.S.C. § 3161(c)(1). 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 requested reset dates of either Friday, September 9, 2022, after 11:00 a.m. EST or Monday, September 19, 2022, after 11:00 a.m. EST 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 plea discussions with the Government and to continue reviewing discovery.

The Government does not oppose this motion.

III.

WHEREFORE, PREMISES CONSIDERED, the parties respectfully request that the Court continue this matter to either Friday, September 9, 2022, after 11:00 a.m. EST or to Monday, September 19, 2022, after 11:00 a.m. EST and to 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,

FLANARY LAW FIRM, PLLC
One International Center
100 NE Loop 410, Suite 650
San Antonio, Texas 78216
Tel: (210) 738-8383
Fax: (210) 728-3438

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

ATTORNEY FOR DEFENDANT,
Samuel Christopher Montoya.

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2022, a true and exact copy of the above and foregoing Motion was electronically sent *via* CM/ECF to Alexis Jane Loeb, 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:

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.