

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

UNITED STATES OF AMERICA

v.

**BRADLEY STUART BENNETT,
ELIZABETH ROSE WILLIAMS,**

Defendants.

:
:
:
:
:
:
:
:
:
:

Criminal No. 21-CR-00312-JEB

**UNITED STATES' THIRD UNOPPOSED MOTION TO CONTINUE AND
TO EXCLUDE TIME UNDER THE SPEEDY TRIAL
ACT AND MOTION TO CONTINUE STATUS HEARING**

The United States of America hereby moves this Court for a 60-day continuance of the status conference set for September 23, 2021, and to exclude the time within which the trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, on the basis that the ends of justice served by taking such actions outweigh the best interest of the public and the defendant in a speedy trial pursuant to the factors described in 18 U.S.C. § 3161(h)(7)(A), (B)(i), (ii), and (iv) from the date this Court enters an Order on this motion through and including the date of the next hearing. In support of its motion, the Government states as follows:

FACTUAL BACKGROUND

Defendants are charged by indictment with violations of 18 U.S.C. § 1752(a)(1) and (2) and 40 U.S.C. § 5104(e)(2)(D) and (G). Bennett is charged further with violating Title 18 U.S.C. §§ 1512(c)(2) and (2) and Title 40 U.S.C § 5104(e)(2)(B) that occurred at the United States Capitol on January 6, 2021. The Government seeks a continuance for the following reasons: (1) the parties continue to attempt to resolve this matter without a trial, however, more time is needed to discuss the case and finalize plea negotiations; and (2) the United States continues to provide individualized discovery to Defendants as well as discovery generated from other sources.

Since our last status conference, the United States has worked with counsel for Defendants to attempt to resolve this matter. The Government and counsel for Ms. Williams are close to finalizing their plea negotiations and expect the matter to resolve by a plea. The Government has tendered an offer to counsel for Mr. Bennett, however, because of counsel's schedule, which has included a jury trial and a two-week arbitration set to commence on September 20, 2021, counsel will not be able to meet with Mr. Bennett in October.

As this Court well knows, the investigation and prosecution of the attack on the U.S. Capitol (hereinafter the Capitol Attack), will likely be one of the largest in American history. This investigation continues and the Government expects that additional individuals will be charged. As the Capitol Attack investigation is still on-going, the number of charged defendants and the volume of potentially discoverable materials will only continue to grow. Nevertheless, the United States is aware of and takes seriously its obligations pursuant to Federal Rule of Criminal Procedure 16 and Local Criminal Rule 5.1(a), the provisions of *Brady v. Maryland*, 373 U.S. 83, 87 (1963), *Giglio v. United States*, 405 U.S. 150, 153-54 (1972), and the Jencks Act, 18 U.S.C. § 3500. The Government has already provided nearly all of the discovery directly relevant to Ms. Williams and Mr. Bennett. The Government has one social media account still under review and that account has more than 74,000 pages to review and carve out evidence only relevant to the Capitol Attack. The Government also anticipates additional evidence coming to light from other charged defendants' devices, social media accounts, and other sources which has not yet been identified or examined.

ARGUMENT

Section 3161(h) of the Speedy Trial Act sets forth certain periods of delay which the Court must exclude from the computation of time within which a trial must commence. As is relevant to this motion for a continuance, pursuant to subsection (h)(7)(A), the Court must exclude:

Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of his findings 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). This provision further requires the Court to set forth its reasons for finding that that any ends-of-justice continuance is warranted. *Id.* Subsection (h)(7)(B) sets forth a non-exhaustive list factors that the Court must consider in determining whether to grant an ends-of-justice continuance, including:

- (i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.
- (ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.
...
- (iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, 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.

18 U.S.C. § 3161(h)(7)(B)(i)(ii) and (iv). Importantly, “[i]n setting forth the statutory factors that justify a continuance under subsection (h)(7), Congress twice recognized the importance of

adequate pretrial preparation time.” *Bloate v. United States*, 559 U.S. 196, 197 (2010) (citing §3161(h)(7)(B)(ii), (B)(iv)). Finally, an interests of justice finding is within the discretion of the Court. *See, e.g., United States v. Rojas-Contreras*, 474 U.S. 231, 236 (1985); *United States v. Hernandez*, 862 F.2d 17, 24 n.3 (2d Cir. 1988).

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. Moreover, the investigation is reactive and ongoing. The need for reasonable time to organize, produce, and review voluminous discovery is among multiple pretrial preparation grounds that Courts of Appeals have routinely held sufficient to grant continuances and exclude the time under the Speedy Trial Act. *See, e.g., United States v. Bikundi*, 926 F.3d 761, 777-78 (D.C. Cir. 2019). The parties also remain engaged in plea negotiations and request additional time to resolve those discussions. Accordingly, the ends of justice served by granting a request for a continuance outweigh the best interest of the public and Defendant in a speedy trial.

Government counsel notified the defense of the filing of this motion, and both consent to the motion.

WHEREFORE, the Government respectfully requests that this Court grant the motion to continue the Status Hearing set for September 23 for an additional 60 days from the date this Court enters an Order on this motion through and including the date of the next hearing, and that the Court exclude the time within which the trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, on the basis that the ends of justice served by taking such actions outweigh

the best interest of the public and Defendant in a speedy trial pursuant to the factors described in 18 U.S.C. § 3161(h)(7)(A), (B)(i), (ii), and (iv).

Respectfully submitted,

CHANNING D. PHILLIPS
Acting United States Attorney
DC Bar No. 415793

By: /s/ Monica A. Stump
Monica A. Stump
Assistant United States Attorney
PA Bar Number 90168
District of Columbia
Capitol Riot Detailee
Nine Executive Drive
Fairview Heights, Illinois 62208
Telephone No. (618) 622-3860
monica.stump@usdoj.gov

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Criminal No. 21-CR-00312-JEB
	:	
BRADLEY STUART BENNETT,	:	
ELIZABETH ROSE WILLIAMS,	:	
	:	
Defendants.	:	

ORDER

Based upon the representations in the United States’ Third Unopposed Motion to Continue and to Exclude Time Under the Speedy Trial Act and Motion to Continue Status Hearing, and upon consideration of the entire record, the Court makes the following findings:

Defendants are charged by indictment with violations of 18 U.S.C. § 1752(a)(1) and (2) and 40 U.S.C. § 5104(e)(2)(D) and (G). Defendant Bennett is charged further with violating Title 18 U.S.C. §§ 1512(c)(2) and (2) and Title 40 U.S.C § 5104(e)(2)(B) that occurred at the United States Capitol on January 6, 2021. The Government seeks a continuance based on the following: (1) the parties continue to attempt to resolve this matter without a trial, however, more time is needed to discuss the case and finalize plea negotiations; and (2) the United States continues to provide individualized discovery to Defendants as well as discovery generated from other sources.

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). Due to the number of the parties ongoing plea negotiations, the Government’s ongoing efforts to discover and provide discovery, 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.

Therefore, it is this ____ day of _____, 2021,

ORDERED that the United States' Third Unopposed Motion to Continue and to Exclude Time Under the Speedy Trial Act and Motion to Continue Status Hearing, is hereby GRANTED; it is further

ORDERED that this proceeding is continued to _____, 2021, at ____
_____; 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 trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*

THE HONORABLE JAMES E. BOASBERG
UNITED STATES DISTRICT JUDGE