

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

GRADY DOUGLAS OWENS and  
JASON DOUGLAS OWENS

Defendants.

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Criminal No. 21-286  
Chief Judge Beryl A. Howell

**JOINT STATUS REPORT, MOTION TO CONTINUE AND  
TO EXCLUDE TIME UNDER THE SPEEDY TRIAL  
ACT, AND MOTION TO CONTINUE STATUS HEARING FOR 40 DAYS**

The United States, by and through the United States Attorney, hereby submits this joint status report, pursuant to this Court’s minute order of May 17, 2022, and further moves this Court for a 40-day continuance of the status conference set for May 27, 2022, as well as 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. The Government states as follows:

**FACTUAL BACKGROUND AND CURRENT CASE STATUS**

As this Court is aware, Defendants in this case are charged via indictment with felony and misdemeanor offenses related to crimes that occurred at the United States Capitol on January 6, 2021, including violations of 18 U.S.C. § 231(a)(3), Obstruction of Law Enforcement During Civil Disorder; 18 U.S.C § 111(a)(1) and (b), Assaulting, Resisting, or Impeding Certain Officers or Employees (with physical contact and/or a dangerous weapon); 18 U.S.C. § 1752(a)(1), (2), and (4), Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful

Authority, Disorderly and Disruptive Conduct in a Restricted Building or Grounds; Knowingly Committing an Act of Physical Violence in any Restricted Building or Grounds; 40 U.S.C. § 5104(e)(2)(D) and (F), Violent Entry and Disorderly Conduct in the Capitol Grounds or Buildings and engaging in an Act of Physical Violence in the Capitol Grounds or Buildings. The United States is seeking a continuance based on the following: (1) the United States has provided the majority of individualized discovery to Defendants, though it continues to provide global discovery generated from other sources; (2) after disclosure of the bulk of discovery the government extended plea offers to each Defendant, both with an expiration date of April 11, 2022; (3) after conversation with defense counsel for each Defendant, the Government has agreed to extend the plea acceptance deadline until July 1, 2022, due in part to counsel's inability to have a meaningful and in-person conversation about the plea offer; (4) counsel for Grady Owens intends to fly to Texas in mid-June 2022 to discuss and determine whether Grady Owens will accept the offer; (5) failing successful plea negotiations and taking into account the exercise of due diligence, the Defendants and the Government will further need reasonable time necessary to prepare for trial.

To date, the Government has provided the majority of the most relevant individualized discovery to defense counsel. The Government is also continuing to provide global discovery in the form of evidence from other charged defendants' devices, social media accounts, and other sources which have not yet been identified or examined, the latest of which was disclosed on May 10, 2022 (Global Disclosure No. 15). The Government extended a plea offer to Jason Owens on March 14, 2022. The Government extended a plea offer to Grady Owens on March 17, 2022. Both defendants had until April 11, 2022 to accept or reject the offers, though the date has now been

extended to July 1, 2022. The parties are requesting an additional 40 days to allow counsel for the defendants an adequate time period to review and consider the plea offers made to each of their clients and to discuss the offers with their respective clients. The offers could very well result in an agreeable resolution that would ultimately preserve judicial resources. Should the parties be unable to reach resolution, they will thereafter inform the Court of three proposed available dates and will begin preparing for trial.

### 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). The need for a reasonable time to continue to review voluminous discovery produced 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 defendants would also like the additional time to review and consider the outstanding plea offers and would like until the July 1st deadline to consider their options, particularly in light of the seriousness of the charges they each face. Accordingly, the ends of justice served by granting a request for a continuance outweigh the best interest of the public and the Defendants in a speedy trial.

Government’s counsel notified Defendants’ counsel of the filing of this motion, and they join on behalf of each of their clients to the motion.

WHEREFORE, the Government respectfully requests that this Court grant the motion to continue the Status Hearing set for May 27, 2022 and for an additional 40 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 Defendants 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,

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