

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

UNITED STATES OF AMERICA,)	
)	
v.)	No. 21-CR-250
PHILLIP BROMLEY,)	
)	
Defendant.)	
_____)	

JOINT MOTION TO CONTINUE STATUS CONFERENCE

The United States of America, through the U.S. Attorney for the District of Columbia, and joined by defendant Phillip Bromley, through undersigned counsel, request that the status conference currently scheduled for September 14, 2021 at 2:00 p.m. be continued for 90 days, and that the Court exclude the time until that next status conference date from the time within which the indictment must be returned and 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). In support, the parties submit as follows:

1. On February 12, 2021, Mr. Bromley was charged via criminal complaint with Unlawful Entry to Restricted Building in in violation of 18 U.S.C. § 1752(a) and Disorderly Conduct on Capitol Grounds in violation of 40 U.S.C. § 5104(e)(2). *See* Dkt. 1.
2. On February 17, 2021, Mr. Bromley was arrested in Alabama.
3. On February 25, 2021, Mr. Bromley had his initial appearance in the U.S. District Court for the District of Columbia, after which he was released on his personal recognizance subject to conditions. *See* Dkt. 11. The Court set a status hearing for April 27, 2021, and

excluded the time until that date from calculation under the Speedy Trial Act. *See* Dkt. (minute entry for February 25, 2021).

4. The Court, upon motion of the parties, entered a protective order governing the dissemination of discovery and disclosure of sealed material. *See* Dkt. 17.
5. On March 25, 2021, Bromley was charged via Information with one count of Entering and Remaining in any Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(1); one count of Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2); one count of Disorderly Conduct in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(D), and one count of Parading, Demonstrating, or Picketing in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(F). *See* Dkt. 13. Mr. Bromley was arraigned on April 8, 2021, at which time the Court scheduled a status conference on June 14, 2021, and excluded the time until June 14, 2021 under the Speedy Trial Act. *See* Dkt. (minute entry from April 8, 2021).
6. On June 14, 2021, based on the parties' joint request, the Court scheduled a status conference on September 14, 2021 and excluded the time until September 14, 2021 under the Speedy Trial Act. *See* Dkt. (minute entry from June 14, 2021).
7. The government has produced preliminary discovery in this case. Although the parties' discussions regarding a potential resolution of this case have progressed significantly, recently, the government became aware of additional CCTV video evidence in this case, and turned that discovery over to defense counsel earlier this week. Counsel for the defense and for the government require additional time to review that discovery, and arrangements must also be made to permit Mr. Bromley to review that material, some of which is designated "Highly Sensitive" pursuant to the protective order.

8. In addition, as the government has noted often in these cases, that will be only a portion of the potentially relevant discovery in this case, which will be voluminous. Because the charged criminal acts took place at the same general time and location as many other charged crimes, the government's investigation into the breach of the United States Capitol on January 6, 2021 has resulted in the accumulation and creation of a massive volume of data that may be relevant to many defendants. Indeed, the investigation and prosecution of the events of January 6, 2021 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. Documents and evidence accumulated in the investigation thus far include: (a) thousands of hours of surveillance and body-worn camera footage from multiple law enforcement agencies; (b) thousands of electronic devices; (c) the results of hundreds of searches of electronic communication providers; (d) hundreds of thousands of tips, of which a substantial portion include video, photo and social media; and (e) thousands of reports and related attachments from law enforcement interviews of suspects and witnesses and other investigative steps. As is outlined in the memorandum regarding the status of discovery that the government filed today (with information current as of August 23, 2021), *see* Dkt. 26, incorporated herein by reference, the government is working to meet its unprecedented overlapping and interlocking discovery obligations by providing voluminous electronic information in the most comprehensive and useable format. However, that process is anticipated to extend well beyond the next status conference date of September 14, 2021.
9. Accordingly, the parties now jointly move this Court to continue the status conference, currently scheduled for September 14, 2021, for a period of 90 days. Such a continuance

will allow for the continued provision and review of discovery in this unusual and complex case, and will grant counsel for the defendant and the attorney for the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Proceeding to trial without such a continuance would be likely to result in a miscarriage of justice, would make it unreasonable to expect adequate preparation for pretrial proceedings and trial itself due to the unusual and complex nature of the prosecution, and would deny counsel for both parties the time necessary for effective preparation.¹

10. The parties also request that the time until the date of the continued status conference in this matter be excluded from calculation of the time necessary to return an indictment or commence a trial, pursuant to the Speedy Trial Act, 18 U.S.C. § 3161. The parties submit that a continuance of approximately 90 days is warranted and that an order excluding time would best serve the interests and ends of justice and outweigh the interests of the public and defendant in a speedy trial.

¹ On August 25, 2021, in recognition of the current high rate of transmission of the Delta variant in the District of Columbia, Chief Judge Howell issued Standing Order 21-47, limiting the number of jury trials that may be conducted at one time until at least October 31, 2021. Further, the Court found that “for those cases that cannot be tried consistent with those health and safety protocols and limitations, the additional time period from August 31, 2021 through October 31, 2021 is excluded under the Speedy Trial Act as the ends of justice served by the continuances to protect public health and safety and the fair rights of a defendant outweigh the best interest of the public and any defendant’s right to a speedy trial, pursuant to 18 U.S.C. 3161(h)(7)(A).” (As detailed in Standing order 21-47, the Court had previously found that due to the exigent circumstances created by the COVID-19 pandemic, the time period from March 17, 2020 through August 31, 2021, would be excluded in most criminal cases under the Speedy Trial Act.) The effect of the continuing pandemic on the ability to hold jury trials also supports exclusion of time under the Speedy Trial Act in this case.

WHEREFORE, the United States and Mr. Bromley request that this Court continue the status conference currently scheduled for September 14, 2021 at 2:00 p.m. for a period of 90 days, and that the Court exclude the time until that next status conference date from the time within which the indictment must be returned and 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).

Respectfully submitted,

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