

**In the United States District Court
For the District of Columbia**

United States of America)	
)	
v.)	Case No. 1:21-cr-00263-TSC
)	
Russell Dean Alford)	

**Unopposed Motion to Continue Trial and
to Exclude Time Under the Speedy Trial Act**

Mr. Russell D. Alford, by and through counsel and without opposition from the United States, moves this Honorable Court to continue the trial in this matter, which is currently scheduled for April 13, 2022. Mr. Alford asks that the trial be continued for an amount of time sufficient to effectuate either a transfer of venue or expanded examination of potential jurors, including but not limited to a juror questionnaire. Mr. Alford asks, pursuant to 18 U.S.C. § 3161(h)(7)(A), that all time resulting from this continuance be excluded from Speedy Trial Act calculations.

In support, Mr. Alford states as follows:

1. On March 30, 2021, Mr. Alford was charged by 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). (Doc. 8.)

2. On April 1, 2021, Mr. Alford had his initial appearance and arraignment via videoconference in the U.S. District Court for the District of Columbia, after which he was released on his personal recognizance subject to conditions. (Doc. 11.) Magistrate Judge Harvey excluded time under the Speedy Trial Act between April 1 and April 7, 2021.
3. Following a status hearing on April 7, 2021, the Court excluded time in the interest of justice between April 7 and June 7, 2021, the date of the next scheduled status conference.
4. On May 25, 2021, the Court, pursuant to an unopposed motion filed by the government, entered a protective order governing the dissemination of discovery. (Doc. 18.)
5. At a status hearing on June 11, 2021, the Court, upon the consent of both parties, excluded time in the interest of justice between June 11 and August 23, 2021, the date of the next scheduled status conference.¹
6. At the August 23, 2021, status hearing, the Court, upon the consent of both parties, excluded time in the interest of justice between August 23 and October 22, 2021, the date of the next scheduled status conference.
7. On October 26, 2021, the Court granted the parties' Joint Motion to Exclude Time Under the Speedy Trial Act and excluded the time between October 22, 2021 and October 29, 2021.

¹ The time between June 7—the date of the originally scheduled status hearing—and June 11—the rescheduled status hearing—was not excluded under the Speedy Trial Act.

8. On October 27, 2021, Mr. Alford filed a Redacted, Unopposed Motion to Continue and Exclude Time Under the Speedy Trial Act, and appended Mr. Alford's signed Notice of Speedy Trial Waiver. (Doc. 28, Doc. 28-1.) This Court granted the Motion on October 28, 2021, and excluded the period between October 29, 2021 and December 17, 2021 from the Speedy Trial Act calculation. (Dkt. entry of Oct. 29, 2021.)
9. On December 17, 2021, the Court convened a status conference by videoconference and set trial in this matter for April 13, 2022. (Dkt. entry of Dec. 17, 2021.) The Court also excluded the time between those two dates from the speedy trial calculation. (*Id.*)
10. Between the December 17, 2021 status conference, and the date of this filing, the United States has made three additional global discovery disclosures, one of which contains at least 100 gigabytes of data. As noted in the government's recent filing regarding discovery disclosure, Global Productions 8 through 11 are substantial. (Doc. 34-1 at 6.)
11. On March 1, 2022, Mr. Alford filed a Motion for Transfer of Venue or, in the Alternative, to Allow Expanded Examination of Prospective Jurors Before and During Voir Dire. (Doc. 40.)
12. Relief on either ground presented in the motion would necessitate a continuance of the April 13, 2022, trial date. In the event of a venue transfer, the parties and the Court would require time to identify an alternative venue and see to the logistics of the transfer there. And if the Court instead grants

Mr. Alford his alternative relief of expanded examination of prospective jurors, a continuance would be required to facilitate the prospective juror questionnaire that, for the reasons set out in the pending Motion, is critical to ensuring that the jury ultimately empaneled is impartial. The requested continuance would also permit Mr. Alford to further review the additional discovery disclosures.

13. Assistant United States Attorney Hava Mirrell has advised that although the United States does not join in Mr. Alford's request, it does not oppose a continuance.²

14. Mr. Alford has been consulted and personally concurs in the requested relief, and reaffirms the written Waiver of Speedy Trial previously submitted. (Doc. 28-1.)

15. For all of these reasons, Mr. Alford asks this Honorable Court to find that the ends of justice served by granting the requested continuance outweigh the best interests of the public, and Mr. Alford himself, in convening trial within the 70-day period otherwise required by the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(7)(A). In weighing whether to grant such a continuance, the Act directs the Court to consider "[w]hether the failure to grant such a continuance in a case [. . .] would deny [. . .] counsel for the defendant or the attorney for the

² Although the United States has indicated that it does not oppose a continuance, Mr. Alford makes no representation as to its position on either avenue of relief requested in the motion for venue transfer or expanded examination of potential jurors.

Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.” *Id.* at (h)(7)(B)(IV).

16. Requests for a trial continuance under the ends-of-justice provision are committed to the district court’s discretion, “within limits and subject to specific procedures,” to “accommodate limited delays for case-specific needs.” *Zedner v. United States*, 547 U.S. 489, 499 (2006). “The substantive balancing underlying the decision to grant such a continuance is entrusted to the district court’s sound discretion.” *United States v. Rice*, 746 F.3d 1074, 1078 (D.C. Cir. 2014) (internal citation omitted).

Respectfully submitted,

KEVIN L. BUTLER
Federal Public Defender
Northern District of Alabama

/s/ James Gibson
JAMES GIBSON
Assistant Federal Public Defender
505 20th Street North, Suite 1425
Birmingham, Alabama 35203
(205) 208-7170
James_Gibson@fd.org

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2022, I electronically filed the foregoing via this Court’s CM/ECF system, which will send notice of such filing to all counsel of record.

Respectfully submitted,

/s/ James Gibson
JAMES GIBSON
Assistant Federal Public Defender