

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

UNITED STATES OF AMERICA :
 : **CASE NO. 21-CR-566 (RCL)**
 v. :
 :
DAVID NICHOLAS DEMPSEY :
 :
 Defendant. :

**JOINT MOTION TO CONTINUE AND
TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT**

The United States, by and through its attorney, the United States Attorney for the District of Columbia, and defendant, David Nicholas Dempsey, by and through his counsel, Sabrina Shroff, hereby jointly move to vacate the February 18, 2022 status hearing scheduled for 2:00 p.m. and to continue the matter for approximately 60 days, and further to exclude the time within which 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 of this motion, the parties state as follows:

1. On October 18, 2021, the parties appeared for an initial status hearing before District Judge Lamberth, at which time the Court set a status hearing on December 20, 2021 and excluded time under the Speed Trial Act until that date. The defendant is detained pending resolution of this matter.

2. The parties filed a previous Joint Motion to Continue and Exclude Time Under the Speedy Trial Act on December 17, 2021 (ECF No. 19), which was granted on the same date (ECF No. 20).

3. Since the last status conference, the government has produced over 430 files of

electronic evidence related to the specific charges against the defendant, including video, photos, documents and reports. Further, the government has provided additional evidence related to the investigation of the Capitol Breach as described in the United States' Memoranda Regarding Status of Discovery ("Status Memoranda") (ECF Nos. 17 & 22).

4. As noted in the government's Status Memoranda, the investigation and prosecution of the Capitol Breach 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. Though the government has and will continue to diligently review and produce evidence to the defense, the nature and size of the overall investigation understandably affects the timeline for each individual case.

5. During any continuance granted by the Court the defense will review discovery provided by the government, and the government will continue to collect, catalogue, and provide discovery. The parties also intend to continue discussion of the possibility of a pre-trial resolution.

6. The parties submit that under these circumstances, continuing the February 18, 2022 status hearing for 60 days to allow the government to continue to produce discovery related to defendant and the larger Capitol Breach investigation and to allow the defense the opportunity to review the voluminous discovery productions would best serve the ends of justice and that such a continuance outweighs the interests of the public and the defendant in a speedy trial.

WHEREFORE, the parties respectfully jointly request that the February 18, 2022 status hearing be continued for 60 days. The parties further request that the Court make a finding that it is in the interests of justice that the time between February 18, 2022 and the next status date be excluded from the Speedy Trial Act calculation.

Respectfully submitted,

MATTHEW M. GRAVES
United States Attorney
DC Bar No. 481052

By: /s/ Sabrina Shroff
SABRINA SHROFF
Assistant Federal Defender and
Counsel for Defendant
625 Indiana Avenue, N.W.
Washington, D.C. 20004
(202) 717-0964
Sabrina_Shroff@fd.org

By: /s/ Katherine Nielsen
KATHERINE NIELSEN
Trial Attorney, Detailee
D.C. Bar No. 491879
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 355-5736
Katherine.Nielsen@usdoj.gov

CERTIFICATE OF SERVICE

On this 17th day of February, 2022, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

/s/ Katherine Nielsen
KATHERINE NIELSEN
Trial Attorney, Detailee