

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

**UNITED STATES OF AMERICA**

**v.**

**ERIK HERRERA,**

**Defendant.**

**No. 21-CR-619-BAH**

**UNITED STATES'S UNOPPOSED MOTION TO ENLARGE TIME  
TO RESPOND TO THE COURT'S MARCH 31 ORDER, TO CONTINUE STATUS  
HEARING AND TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT**

The United States of America by and through its attorney, the United States Attorney for the District of Columbia, requests that the Court enlarge the time period for responding to the Court's minute order dated March 31, continue the status hearing in this matter, and that the Court exclude the time until the next hearing date from the calculations under the Speedy Trial Act. 18 U.S.C. § 3161. The defendant does not oppose this motion. In support of this request, the government notes the following:

1. The parties appeared before the Court for an initial status hearing on October 15, 2021. At that time, the Court arraigned the defendant and set the case for a further status hearing on November 19, 2021. (Dkt. 10/15/21 Minute Entry.) The Court ordered that the time from October 15 through November 19 should be excluded from time calculations under the Speedy Trial Act in the interests of justice. (Dkt. 10/15/21 Minute Entry.)
2. On November 18, 2021, the Court granted the government's unopposed motion to continue the November 19 status hearing until January 21, 2022, and ordered that the time

between November 19, 2021, and January 21, 2022, would be excluded from time calculations under the Speedy Trial Act in the interests of justice. (Dkt. 11/18/21 Minute Entry.)

3. On January 20, 2022, the Court granted the government's unopposed motion to continue the January 21 status hearing until March 4, 2022, and ordered that the time between January 21 and March 4 would be excluded from time calculations under the Speedy Trial Act in the interests of justice. (Dkt. 1/20/22 Minute Entry.)

4. On March 2, 2022, the Court granted the government's unopposed motion to continue the March 4 status hearing until April 1, 2022, and ordered that the time between March 4 and April 1 would be excluded from time calculations under the Speedy Trial Act in the interests of justice. (Dkt. 3/2/22 Minute Entry.)

5. On March 31, the Court granted the government's unopposed motion to continue the April 1 status hearing until April 29, 2022, and ordered that the time between April 1, and April 29 would be excluded from time calculations under the Speedy Trial Act in the interests of justice. (Dkt. 3/31/22 Minute Entry.)

6. In a second Minute Order entered on March 31, the Court directed the parties to inform the Court by noon on April 25 as to "whether the parties anticipate that a plea offer to dispose of the case short of trial will be accepted ... and, if not, providing the Court with three proposed trial dates and a proposed motions schedule[.]" (Dkt. 3/31/22 Minute Order (paperless).)

7. The government and the defendant have continued to discuss a possible resolution of this matter. However, despite the parties' best efforts, those discussions have not yet reached their conclusion. On Friday, April 22, the defendant's counsel provided the government with a response to the government's plea offer that the government has not had time fully to consider.

Additionally, new counsel has entered an appearance for the defendant. (Dkt. 28.) And the government anticipates that new counsel for the United States will enter an appearance within the next several days and that the undersigned prosecutor will withdraw from this matter.

8. The government and defense counsel believe that a further enlargement of time to conclude discussions of a resolution would serve the interests of justice. An enlargement of time to respond to the Court's minute order would also conserve judicial resources by allowing counsel for the defendant and the government, if necessary, to propose meaningful trial dates and a motions schedule. The parties also submit that a two-week continuance of the April 29 status hearing will afford sufficient time to conclude their discussions. The parties also request, if possible, for the next hearing in this matter to be set at 10:00 A.M. or later to allow for participation by counsel located in California.

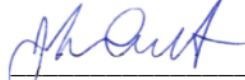
9. The parties also ask that the Court exclude time under the Speedy Trial Act in order to allow these discussions to continue because "the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A).

WHEREFORE, the government requests—with no objection from the defense—that the Court enlarge the period of time for responding to the Court’s March 31 Minute Order, continue the status hearing in this matter for two-weeks, and exclude time between April 29, 2022, and the next hearing date from calculations under the Speedy Trial Act. A proposed order is attached.

Respectfully submitted,

MATTHEW M. GRAVES  
United States Attorney

By:



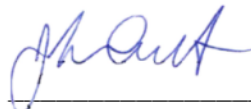
---

JOHN W. BORCHERT (Bar No. 472824)  
Assistant United States Attorney  
Fraud Section  
555 Fourth Street, NW  
Washington, D.C. 20530  
(202) 252-7679  
john.borchert@usdoj.gov

March 31, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 25<sup>th</sup> day of April 2022, I caused a copy of the foregoing to be served on counsel for the defendant, Jonathan Ogata.



---

JOHN W. BORCHERT  
Assistant United States Attorney

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

**UNITED STATES OF AMERICA**

**v.**

**ERIK HERRERA,**

**Defendant.**

**No. 21-CR-619-BAH**

**[PROPOSED] ORDER**

This matter comes before the Court on the government's Unopposed Motion for Enlargement of Time to Respond to the Court's March 31 Order, to Enlarge Time for Responding to the Court's March 31 Order, to Continue Status Hearing, and to Exclude Time Under the Speedy Trial Act. The Court finds that there is good cause for the requested enlargement of time and the continuance, and that the exclusion of time from calculations under the Speedy Trial Act would serve the ends of justice by allowing the parties to discuss a resolution of this matter that would obviate the need for trial. *Cf.* Fed. R. Crim. P. 5.1(d); 18 U.S.C. § 3161(h)(7)(A).

IT IS THEREFORE ORDERED that the status hearing in this matter shall be continued until \_\_\_\_\_; and it is further

ORDERED that the time between April 29, 2022, and the next status hearing shall be excluded from the time within which trial in this matter must commence.

---

**BERYL A. HOWELL**  
Chief Judge

cc: JOHN W. BORCHERT  
Assistant United States Attorney  
United States Attorney's Office  
555 Fourth Street, N.W.  
Washington, D.C. 20530

JONATHAN OGATA  
Deputy Federal Public Defender  
Central District of California  
411 W. 4<sup>th</sup> Street, Suite 7110  
Santa Ana, California 92701