

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

UNITED STATES OF AMERICA :
 :
 v. : **Case No. 21-CR-695 (JEB)**
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 :
 RAFAEL VALADEZ, JR., :
 :
 Defendant. :

**JOINT MOTION TO CONTINUE STATUS HEARING SET FOR APRIL 1, 2022
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, and the defendant, Rafael Valadez, Jr., by and through his attorney, Deputy Federal Public Defender Angela Viramontes, hereby move this Court to continue the status hearing scheduled for April 1, 2022 for a period of approximately 60 days, and to exclude the intervening time under the Speedy Trial Act. In support of this motion, the parties state as follows:

FACTUAL BACKGROUND

The defendant was charged on November 23, 2021 by criminal information with four misdemeanor offenses: Entering and Remaining in a Restricted Building, in violation of 18 U.S.C. § 1752(a)(1); Disorderly and Disruptive Conduct in a Restricted Building, in violation of 18 U.S.C. § 1752(a)(2); Violent Entry and Disorderly Conduct in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D); and Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G). ECF No. 11. The defendant was arraigned on the information on December 1, 2021.

To date, the Government has provided significant relevant individualized discovery to 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 has not yet been identified or examined. Defense counsel and Defendant have and continue to review the individual and global discovery in this matter. Thus, the Government seeks additional time to disclose discovery, and to allow counsel time to review and consider that discovery. The additional time will also allow the parties to begin plea discussions in an effort to resolve this matter.

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 organize, produce, and review voluminous discovery 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 Government would also like to extend a plea offer to Defendant and give him an adequate amount of time to consider and accept or reject the offer. Accordingly, the ends of justice served by granting a request for a continuance outweigh the best interest of the public and Defendant in a speedy trial.

WHEREFORE, the parties request that the April 1, 2022 Status Conference be continued for approximately 60 days, and that there is an exclusion of time under the Speedy Trial Act from April 1, 2022, through the next scheduled Status Conference 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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CERTIFICATE OF SERVICE

On March 31, 2022, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

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