

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

KYLE ALAN MLYNAREK AND
RONALD MICHAEL BALHORN

Defendants.

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CASE NO. 1:23-CR-114

UNOPPOSED MOTION TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT

The United States of America makes this unopposed motion to exclude the time within which trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.* The government and defense counsel have worked cooperatively to propose a trial date and await an order from the court. But because time under the Speedy Trial Act was tolled only until the parties’ last scheduled status conference on May 22 (which was subsequently canceled for lack of need) the time under the Act continues to run. As the parties anticipate going to trial in October, the government requests—and the defense does not oppose—that time be excluded from calculation under the Act until the proposed trial date.

LEGAL STANDARD

Under the Speedy Trial Act, a defendant must generally be tried no later than seventy days after an information or indictment is filed and made public, or after the defendant appears before a judicial officer for the charge, whichever occurs later. 18 U.S.C. § 3161(c)(1). Yet, while this is the general rule, time may be excluded for “[a]ny period of delay resulting from a continuance,” where the court finds that “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. § 1361(h)(7)(A). Factors for the court to consider in granting such a continuance include:

- (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), (iv). Here, all three factors counsel in favor of granting a continuance. *First*, the government and defense have worked with the Court’s chambers to agree on a trial date. Were time not tolled before then, the case would need to be dismissed, “result[ing] in a miscarriage of justice.” 18 U.S.C. § 3161(h)(7)(B)(i). *Second*, the defendants are charged as part of the largest criminal investigation in history, involving over 1,000 other defendants and hundreds of closed-circuit television and third-party videos. It is not unreasonable, therefore, to require a few more weeks for “adequate preparation for pretrial proceedings or for the trial.” 18 U.S.C. § 3161(h)(7)(B)(ii). *Third*, while the facts of this case are not complicated, the government and defense have worked under the assumption that trial would be in October. As such, the time is now “necessary for effective preparation.” 18 U.S.C. § 3161(h)(7)(B)(iii).

CONCLUSION

Because the government, the defense, and, to our knowledge, the Court hope to try this case in October, the United States respectfully requests that time under the Speedy Trial Act be

tolled until the proposed trial date. Doing so will serve the ends of justice and give both the defense and the government time to adequately prepare their cases.

Respectfully submitted,

DATED: July 7, 2023

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