

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Case No. 12-06001-16-CR-SJ-GAF
)
 CHRISTOPHER B. ESCOBAR,)
)
 Defendant.)

ORDER CONTINUING TRIAL

On January 10, 2012, the Grand Jury returned a forty count indictment against defendants Deborah J. Flores, Sherri E. Gutierrez, Stephen E. Vanvacter, Sara M. Gonzalez, Christina M. Gonzalez, Jessica M. Gonzalez, Brenda De La Cruz, Martin Alejandro Llanas-Rodriguez, Julio Cesar Llanas-Rodriguez, Elder Enrique Ordonez-Chanas, Nelson Dariseo Bautista-Orozco, Ranfe Adaias Hernandez-Flores, Joel LNU, and Martin Lara-Rodriguez.

On September 25, 2012, the Grand Jury returned a forty-five count superseding indictment against defendants Flores, Gutierrez, De La Cruz, Martin Llanas-Rodriguez, Julio Llanas-Rodriguez, Ordonez-Chanas, Hernandez-Flores, Luis Adalberto Felipe-Lopez (formerly charged as Joel LNU), Lara-Rodriguez, Rafael Hernandez-Ortiz, Christopher B. Escobar, Shayna R. Vanvacter, Jon L. Grippando, and Melissa L. Scallions.¹ Defendant Escobar is only charged in Count One of the superseding indictment. It charges all defendants with conspiracy to transport illegal aliens, to unlawfully produce identification documents, to unlawfully transfer the means of identification of another person, and to commit social security fraud.

¹ Defendants Flores, Gutierrez, Stephen Vanvacter, Sara Gonzalez, De La Cruz, Martin Llanas-Rodriguez, Ordonez-Chanas, Felipe-Lopez, Hernandez-Ortiz, Shayna Vanvacter, Grippando and Scallions have entered guilty pleas. Defendants Christina Gonzalez, Jessica Gonzalez, Julio Llanas-Rodriguez, Bautista-Orozco and Hernandez-Flores have been sentenced. Defendant Lara-Rodriguez has an outstanding arrest warrant.

Pursuant to a Trial Order entered on November 21, 2012, the case was set for trial on the joint criminal jury trial docket commencing May 28, 2013.

On April 26, 2013, defendant Escobar filed a Motion for Continuance with Suggestions. The motion requests a continuance to the joint criminal jury trial docket commencing October 21, 2013. The suggestions in support of the motion state that defense counsel needs additional time to prepare an adequate defense in this case. Defense counsel was engaged in trial in *United States v. Hawkins, et al.*, which began on April 17, 2013 and concluded on May 15, 2013. Counsel for the government has no objection to the requested continuance.

The Speedy Trial Act of 1974, as amended, mandates the commencement of the trial of a defendant within seventy days from the defendant's first appearance before a judicial officer of the court in which the charge is pending. In computing the seventy-day time period, the periods of delay set forth in 18 U.S.C. § 3161(h) are to be excluded. Any period of delay resulting from a continuance granted at the request of a defendant is excludable if the Court finds the ends of justice served by the taking of such action outweigh the best interests of the public and the defendant in a speedy trial, provided the Court sets forth the reasons for such finding. See 18 U.S.C. § 3161(h)(7)(A).

Given the issues outlined above, the Court finds that it would be unreasonable to expect defense counsel to prepare this case adequately for trial prior to October 21, 2013, and that failure to grant a continuance would deny defense counsel the reasonable time necessary for effective preparation and, thus, would deny the defendant his right to effective assistance of counsel. The Court finds the ends of justice served by granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.

Based on the foregoing, it is

ORDERED that defendant Escobar's Motion for Continuance (doc #341) is granted. This case is removed from the joint criminal jury trial docket which commences May 28, 2013.

It is further

ORDERED that this case is set for trial on the joint criminal jury trial docket which commences October 21, 2013. It is further

ORDERED that, pursuant to 18 U.S.C. section 3161(h), the time between the date of this Order and November 1, 2013, the last day of the October 21, 2013 Joint Criminal Jury Trial Docket, shall be excluded in computing the time within which this trial must commence.

May 22, 2013

/s/ Gary A. Fenner
GARY A. FENNER
UNITED STATES DISTRICT JUDGE