

IN THE UNITED STATES COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

VS.

JAMES ALLEN JACOBS, et al.,
Defendants.

§
§
§
§
§
§
§
§

NO. 11-00046-01/09-CR-W-ODS

MOTION TO CONTINUE TRIAL

Defendant Johnny Smith, by and through counsel Dana M. Altieri, hereby moves the court for a continuance of the trial in this matter, now scheduled for October 24, 2011 to the criminal docket commencing January 2012 and in support states:

1. There has been one previous continuances requested and received.
2. This case involves nine defendants and four different counts. Count One, the conspiracy count, has a not less than ten year minimum sentence. This is a significant sentence and discovery needs to be reviewed carefully. The discovery is voluminous and all defendants have been working on the review of discovery. As of the filing of this Motion, not one defendant has set his or her case for a plea. This is due, in part, to the significant amount of time the review of discovery has taken and the careful evaluation of the discovery.
3. Counsel for Mr. Smith needs additional time to adequately investigate and prepare for the charges against Mr. Smith. Mr. Smith and counsel have met on several occasions and reviewed discovery, but due to the considerable volume, additional time is necessary.

4. All codefendants have been contacted and all are in agreement with this request. The January 2012 trial docket is a suitable trial date for all parties involved.
5. Counsel for Mr. Smith has spoken with the United States Attorney's Office who has no objection to this request.

This continuance is sought not for the purpose of dilatory delay, but is sought so that Mr. Smith may be afforded due process of law under the Fifth Amendment to the U.S. Constitution and afforded effective assistance of counsel under the Sixth Amendment to the U.S. Constitution. In accord with 18 U.S.C. ' 3161(h)(8)(A) and (B) (VI), it is submitted that the above-stated reasons for a continuance outweigh the best interest of the public and Defendant in a speedy trial which is required by 18 U.S.C. ' 3161(c).

Under the provisions of 18 U.S.C. ' 316(h)(8)(A), the period of time until the next criminal trial docket should be excluded in computing the period of time in which the Defendant should be brought to trial under the provisions of the Speedy Trial Act.

WHEREFORE, Mr. Smith requests this Court, pursuant to 18 U.S.C. ' 3161(h)(8)(A) and (B), prays the court continue this matter from the current setting of October 24, 2011, to the criminal docket commencing January 2012.

Respectfully submitted,

/S/ DANA M. ALTIERI

Dana M. Altieri
114 SW 3rd Street
Lee's Summit, MO 64063
Missouri Bar No. 50864
(816) 347-1818
FAX (816) 347-1854

ATTORNEY FOR DEFENDANT

CERTIFICATE REGARDING SERVICE

I hereby certify that it is my belief and understanding that counsel for plaintiff and counsel for codefendants in this matter are participants in the Court's CM/ECF program and that separate service of the foregoing document is not required beyond the Notification of Electronic Filing to be forwarded on September 26, 2011 upon the filing of the foregoing document.

/s/ Dana M. Altieri

DANA M. ALTIERI