

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	11-00157-03-CR-W-SOW
TONY P. CASTRO,)	
)	
Defendant.)	

ORDER CONTINUING CURRENT TRIAL SETTING

Before the court is a motion to continue filed by defendant Tony Castro. In support of his motion, defendant states in part as follows:

1. Defendant hereby moves the Court to continue this matter to the August regular criminal docket. This matter is set for the current July docket. Defendant was scheduled for change of plea but did not appear on the scheduled date or at his scheduled trial which would have otherwise commenced today.

2. It is still defendant's intent to tender a plea of guilty. It is anticipated that he will be in custody shortly and the matter can be reset immediately for change of plea.

3. AUSA Ambrose is not opposed to this request and is aware of the current situation and is still agreeable to disposition by plea agreement assuming it is done forthwith.

4. Counsel submits that the matter must be continued with delay chargeable to defendant under the provisions of Title 18, United States Code, Section 3161(h)(8)(B), in that trial on the current setting is impossible and cannot commence in his absence given the totality of the circumstances and the fact that defendant is not presently in custody.

The Speedy Trial Act of 1974, as amended, mandates the commencement of the trial of a defendant within 70 days from the defendant's first appearance before a judicial officer of the court in which the charge is pending. In computing the 70-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 taking such action outweigh the best interest of the public and the defendant in a speedy trial, provided the court sets forth the reason for such finding.

In light of the circumstances described above, I find that the ends of justice served by removing this criminal action from the joint criminal jury trial docket which will commence July 9, 2012, and continuing the trial until the joint criminal jury trial docket which will commence August 13, 2012, outweigh the best interest of the public and the defendant in a speedy trial.

In accordance with § 3161(h)(7)(C), congestion of the court's calendar was not considered in deciding to remove this case from the joint criminal jury trial docket which will commence July 9, 2012.

In light of the circumstances described above, it is

ORDERED that this criminal action is removed from the joint criminal jury trial docket which will commence July 9, 2012. It is further

ORDERED that this criminal action is set for trial on the joint criminal jury trial docket which will commence August 13, 2012. It is further

ORDERED that, pursuant to 18 U.S.C. § 3161(h)(7), the time between the date of this order and August 13, 2012, shall be excluded in computing the time within which the trial of this criminal action must commence.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
July 10, 2012