

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

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Case No. 10-00320-12-CR-W-DGK
)	
DESHAUN CERUTI,)	
)	
<i>Defendant.</i>)	

**DEFENDANT CERUTI'S MOTION TO CONTINUE
TRIAL SETTING AND PRETRIAL CONFERENCE**

COMES NOW defendant DeShaun Ceruti, by and through counsel, and respectfully moves this Honorable Court for a continuance of the trial setting in this matter currently scheduled for November 26, 2012, to a setting on this Court's criminal trial docket scheduled for April 22, 2013, and to continue the pretrial conference currently scheduled for November 14, 2012. In further support of this motion, the defendant offers the following memorandum.

MEMORANDUM IN SUPPORT

1. Defendant Ceruti is charged by grand jury indictment with one count of conspiracy to distribute controlled substances in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and (B), and 846, one count of money laundering in violation of 18 U.S.C. § 1956(a)(1)(A)(I) and (h), and one criminal forfeiture allegation.

2. On or about October 19, 2012, predecessor counsel for Mr. Ceruti filed a motion to continue the previous trial setting in this matter of October 22,

2012, due to counsel's serious health issues. (Doc. 550). Predecessor counsel also filed simultaneously a motion to withdraw, again due to serious health concerns. (Doc. 551). This Court granted the motion to continue the trial setting to the next trial docket to begin on November 26, 2012. (Doc. 556). In its Order, the Court indicated that the case was being continued for one docket to allow substitute counsel time to determine how long it will take to prepare for trial and to file a motion to continue, if necessary. The Court also granted predecessor counsel's motion to withdraw (Doc. 558).

3. The undersigned counsel was appointed on or about October 19, 2012. (Doc. 558). In conferring with the Government and predecessor counsel, it has been determined that there are approximately 870 pages of written discovery, as well as numerous recorded phone conversations. There have been a number of pretrial motions and hearings with respect to Mr. Ceruti. It appears that most, if not all, of the discovery process has been completed. There may be additional fact investigation required once counsel has had a sufficient opportunity to review this case. The undersigned counsel has received Mr. Ceruti's file from predecessor counsel and has begun the file and discovery review process. Due to counsel's trial calendar and other client obligations, there is not sufficient time between the date of the appointment of counsel and November 26 for counsel to be prepared for trial. Additional time is being sought for counsel to fully review the written discovery and the recorded phone calls, to meet and confer with the client

regarding trial strategies, to review all pleadings and hearings that have been conducted in this case prior to counsel's appointment, to analyze all factual and legal issues in this matter, and to conduct any further factual investigation or legal research that may be required.

4. The undersigned counsel is respectfully requesting a continuance from the November 26, 2012, trial docket to the April 22, 2013, docket. The undersigned has a January 2013 trial setting in *United States v. Ji Li Huang et al.*, Case No. 12-00296-02-CR-W-BCW. The undersigned also anticipates filing a motion to continue the trial setting in *United States v. Pedro Pablo-Solis*, Case No. 12-06004-02-CR-W-BCW, that will request a February 2013 trial docket. The undersigned counsel has a long-planned family vacation over Spring Break which conflicts with the March 2013 trial docket. A setting in April 2013 does not conflict with these other settings.

5. The undersigned counsel has conferred with the remaining parties in this case. On behalf of the United States, AUSA Bruce Rhoades does not object to a continuance to the April 2013 trial docket. John Gromowsky, who represents Jason Richardson, does not object to a continuance to the April 2013 trial docket. Eugene Harrison, who represents Rafael Zamora, does not object to a continuance to the April 2013 trial docket. Charles McKeon, who represents Peter Flores, has indicated that his client is in custody and will likely object to the continuance request.

6. The undersigned counsel has also met and conferred with Mr. Ceruti regarding this motion and the request for an April 2013 trial setting. Mr. Ceruti consents and agrees with the continuance request and has no objection to an April 2013 trial setting.

7. Under 18 U.S.C. § 3161(h)(7)(A), the Court may grant a continuance and speedy trial exclusion if a finding is made that the ends of justice served by granting a continuance outweigh the interests of the public and the defendant to a speedy trial. Counsel understands and appreciates that this case has been pending for some time. However, due to the unique circumstances involving the health of predecessor counsel which required the appointment of substitute counsel approximately one month before trial, it is submitted that the ends of justice will be served by granting the continuance as requested herein and setting the trial to the April 2013 trial docket.

WHEREFORE, based on the foregoing, defendant Ceruti respectfully moves for a continuance of the current trial setting of November 26, 2012, to the Court's April 2013 trial docket, for a continuance of the pretrial conference currently scheduled for November 14, 2012, and for any further relief deemed proper in these circumstances.

Respectfully submitted,

GADDY GEIGER & BROWN PC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 1st day of November, 2012, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all counsel of record, including the following:

Bruce Rhoades
Assistant United States Attorney
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/s/ W. Brian Gaddy
Counsel for Defendant Ceruti