

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

UNITED STATES OF AMERICA,
Plaintiff,

v

Case No. 09-00121

NATHAN MCKEE,
Defendant.

MOTION TO CONTINUE JURY TRIAL AND SUGGESTIONS IN SUPPORT

The defendant Nathan McKee, by and through his attorney Melanie S. Morgan, moves this Court for an order removing this case from the November joint criminal docket and resetting it to a docket after January 1, 2010. In support of this request, the following suggestions in support are offered:

1. Mr. McKee is one of twelve defendants charged in a multi-count Indictment alleging various violations of the Controlled Substances Act. As of the filing of this motion, Mr. McKee is detained as he is in the custody of the U.S. Marshal Service on a writ from the State of Missouri. However, a motion for release is pending.
2. Mr. McKee was arraigned on the charges on April 29, 2009 and shortly thereafter, a scheduling conference was held in this matter. At the time, the Court had already set this matter for a November trial setting, having had an earlier scheduling conference with several codefendants. Defense counsel alerted the Court, counsel for the codefendants and the government that she would be unavailable to try this case on the November docket due to a mortgage fraud trial (*United States v. Wildor Washington*) that was pending in the District of Kansas and specially set to begin on November 17, 2009 and

end sometime in mid-December. Not knowing how Mr. McKee's case would proceed (resolution or trial), the Court suggested that the case be set for trial on the November docket. However, if it reasonably appeared that Mr. Washington's case would proceed to trial, counsel should request a continuance in this matter sufficiently in advance of the November date in order to reschedule this trial.

3. Accordingly, due to counsel's belief that Mr. Washington's case will proceed to trial, a continuance is being requested. Defense counsel is appointed in both cases and unable to prepare for both cases simultaneously. In order to fulfill her professional obligations to both clients and render effective assistance of counsel as guaranteed under the Sixth Amendment, defense counsel is requesting a continuance under the ends of justice exception to the Speedy Trial Act.
4. Counsel has discussed this matter with Mr. McKee and he does not object.
5. Counsel has discussed this with Mr. Bruce Rhoades and he does not object to this request.
6. This request is made in the interests of justice and not for purposes of delay or harassment.

WHEREFORE the reasons set forth herein, the defense requests this case be removed from the November 2009 joint criminal trial docket and rescheduled for a docket commencing after January 1, 2010.

