

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Criminal Action No.</b>
	)	<b>09-00121-01/12-CR-W-DGK</b>
<b>GILBERTO LARA-RUIZ,</b>	)	
<b>LEATHA MAE GUTIERREZ,</b>	)	
<b>BRUCE ALLEN BISH,</b>	)	
<b>BELINDA LEIGH HEASTAN,</b>	)	
<b>CHARLES WHITSON CORBITT,</b>	)	
<b>KALA YVETTE ROSE,</b>	)	
<b>STEVEN LAVERNE BLACKETER,</b>	)	
<b>ERNEST HAROLD SNEDDON</b>	)	
<b>DUSTIN JOHN BENNY,</b>	)	
<b>DANNY RAY HUGHES,</b>	)	
<b>CODY SHAWN GARDNER,</b>	)	
<b>NATHAN MICHAEL MCKEE,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER OF CONTINUANCE**

On April 9, 2009, the Grand Jury returned an multi-count indictment charging defendant Lara-Ruiz with occupying a position of organizer, supervisor or manager of an ongoing criminal enterprise and obtaining substantial income or resources from it, which involved possession with intent to distribute and distribution of a mixture or substance containing methamphetamine in an amount of at least 10 kilos [200 times that required in Title 21, United States Code, Section 841 (b)(1)(B), all in violation of Title 21, United States Code, Sections 848 (a)(b)(c) and (s). The Indictment also charges the remaining defendants with conspiracy to distribute a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in an amount of five-hundred (500) grams or more, contrary to the provisions of

Title 21, United States Code, Section 841(a)(1) and (b)(1)(A), all in violation of Title 21, United States Code, Section 846. This criminal action is currently set for trial on the joint criminal trial docket which commences November 2, 2009.

On October 6, 2009, defendant Nathan McKee, by and through counsel, filed a motion for continuance and suggestions in support thereof. The suggestions in support of the defendant's motion for continuance state, in part, as follows:

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.

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.

Counsel has discussed this matter with Mr. McKee and he does not object.

Counsel has discussed this with Mr. Bruce Rhoades and he does not object to this request.

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 the taking of 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.

Section 3161(h)(8)(C) provides that a continuance shall not be granted because of general congestion of the Court's calendar. In ordering this case removed from the joint criminal jury trial docket which will commence November 2, 2009, and continuing the trial until the joint criminal jury trial docket which will commence January 11, 2010, the Court is not doing so because of congestion of its calendar.

The Court finds that:

1. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, it would be unreasonable to expect defense counsel to prepare this criminal action adequately for trial prior to January 11, 2010;
2. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, failure to remove this criminal action from the joint criminal jury trial docket which will commence November 2, 2009, and grant a continuance likely would result in a miscarriage of justice;
3. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, failure to remove this criminal action from the joint criminal jury trial docket which will commence November 2, 2009, and 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; and

4. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, the ends of justice served by removing this criminal action from the joint criminal jury trial docket which will commence November 2, 2009, and granting a continuance outweigh the best interest of the public and the defendant in a speedy trial.

It is therefore,

ORDERED that the motion for continuance of this criminal action filed by defendant Nathan McKee on October 6, 2009 (Doc. No. 93), is GRANTED and that this criminal action is removed from the joint criminal jury trial docket which will commence November 2, 2009. It is further

ORDERED that this criminal action is set for trial on the joint criminal jury trial docket which will commence January 11, 2010. It is further

ORDERED that, pursuant to 18 U.S.C. § 3161(h), the time between the date of this Order and January 11, 2010, shall be excluded in computing the time within which the trial of this criminal action must commence.

**/s/ JOHN T. MAUGHMER**

JOHN T. MAUGHMER  
United States Magistrate Judge

Kansas City, Missouri