

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) Criminal Action No.  
 ) 09-00112-01-CR-W-ODS  
 CLIFTON TAYLOR )  
 )  
 Defendant. )

**ORDER DENYING MOTION TO CONTINUE**

Before the court is defendant's oral motion for continuance. In support of his motion, made during a hearing on defendant's request to proceed pro se, he stated the following reasons:

1. Four days after defendant was taken into custody, a robbery occurred at the same bank defendant is charged with robbing. The robber was shot and killed. Defendant wants the original evidence and photographs of that bank robbery to compare to the evidence in his case. When asked why he believes that bank robbery would be relevant to his case, defendant said it was "worth a shot."

2. Defendant wants certified, notarized copies of "who is doing the DNA tests."

3. Defendant wants to have his clothes tested for DNA because he does not trust anyone. He made a reference to hairs that were "sewn" into a hat, but he did not explain what clothes or why he needed further DNA testing done.<sup>1</sup>

The government objects to a continuance since its witnesses are all scheduled to appear next week and their availability on the next trial docket is unknown. Defense counsel has already

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<sup>1</sup>Defense counsel stated that the defense had its own DNA expert who conducted tests. It was the intent of the defense attorney not to call that expert as a witness at trial.

had the defendant's subpoenas served on its witnesses.

Section 3161(h)(8)(A) states that the court may exclude the period of delay resulting from a continuance if the judge finds that the ends of justice served by granting the continuance outweigh the best interest of the public and the defendant in a speedy trial. Section 3161(h)(8)(B) lists the facts which a judge shall consider in determining whether to grant a continuance under subparagraph (A):

(i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.

(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.

(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.

(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Defendant provided no reasons to establish that failure to grant a continuance will likely make a continuation of the proceeding impossible or result in a miscarriage of justice. Defendant stated that he wants materials which appear to be irrelevant to this case. His attorney has gone over the discovery materials with the defendant, and the government indicated to me after the hearing that copies of all discovery will be provided to the defendant today before he leaves the courthouse to return to CCA. Defendant did not indicate during the hearing that he needed additional time to review the discovery or for any reason other than his request for irrelevant material.

This case is not unusual or complex, it appears to be a straight-forward bank robbery case. There is nothing in the record suggesting any novel questions of fact or law, and defendant did not indicate during the hearing that there were any novel questions of fact or law.

There was no delay in returning the indictment.

The defendant is representing himself, and nothing has been stated that persuades me that this case cannot be prepared for trial by January 19, 2010, or that it would be unfair to insist that the case proceed to trial on January 19, 2010.

For these reasons, I find that the ends of justice served by continuing this case do not outweigh the interest of the public

and the defendant in a speedy trial. Therefore, it is

ORDERED that defendant's motion for a continuance of the trial is denied.

/s/ Robert E. Larsen

ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
January 11, 2010