

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. 08-00026-03/05-CR-W-FJG
)
TROY R. SOLOMON,)
CHRISTOPHER L. ELDER, and)
DELMON L. JOHNSON,)
)
Defendants.)

ORDER CONTINUING TRIAL

On February 6, 2008, the Grand Jury returned a twenty-four count indictment against defendants Mary Lynn Rostie, Cynthia S. Martin, Troy R. Solomon, Christopher L. Elder, and Delmon L. Johnson.¹ The indictment charges defendants Solomon, Elder and Johnson with conspiracy to distribute controlled substances and distribution of controlled substances. Defendants Solomon and Johnson are further charged with conspiracy to commit money laundering. The indictment also seeks criminal forfeiture.

On September 16, 2009, defendant Johnson filed a Motion for Continuance with Suggestions. The motion requests a trial setting that is convenient to all parties. The suggestions in support of the motion state that counsel, Darren Fulcher, was appointed to represent defendant Johnson on September 10, 2009. Defense counsel needs time to review the voluminous discovery, conduct independent legal and factual investigation, and to meet with the government, if necessary. Counsel for defendant Elder and counsel for the government have no objection to the continuance request.

¹Defendants Rostie and Martin have entered guilty pleas.

A telephone conference was held with U.S. Magistrate Judge Sarah W. Hays on September 16, 2009, during which the parties discussed discovery issues and a trial date.

The Speedy Trial Act of 1974, as amended, mandates the commencement of the trial of a defendant within seventy days from the defendant's first appearance before a judicial officer of the court in which the charge is pending. In computing the seventy-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 interests of the public and the defendants in a speedy trial, provided the Court sets forth the reason for such finding. See 18 U.S.C. § 3161(h)(7)(A).

Given the issues outlined above, the Court finds that it would be unreasonable to expect defense counsel to prepare this case adequately for trial prior to February 23, 2010, and that failure to grant a continuance would deny defense counsel the reasonable time necessary for effective preparation and, thus, would deny defendant Johnson his right to effective assistance of counsel. The Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and the defendants in a speedy trial.

Based on the foregoing, it is

ORDERED that defendant Johnson's Motion for Continuance (doc #258) is granted. This case is removed from the joint criminal jury trial docket which commences November 2, 2009. It is further

ORDERED that this criminal action is specially set for trial on February 23, 2010. It is further

ORDERED that, pursuant to 18 U.S.C. section 3161(h), the time between the date of this Order and February 23, 2010, shall be excluded in computing the time within which this trial must commence.

/s/*Fernando J. Gaitan, Jr.*
FERNANDO J. GAITAN, JR.
CHIEF UNITED STATES DISTRICT JUDGE