

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.<sup>1</sup> 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 January 20, 2010, defendant Johnson filed a Motion for Continuance with Suggestions. The motion requests a trial setting in May. The suggestions in support of the motion state that defense counsel has nearly completed review of the 20,000 plus pages of discovery, but needs additional time to finish summarizing the material. Counsel for defendant Soloman and counsel for the government have no objection to the continuance request.

A telephone conference was held with U.S. Magistrate Judge Sarah W. Hays on January 21, 2010, during which the parties discussed discovery issues and a trial date. Counsel for defendant

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<sup>1</sup>Defendants Rostie and Martin have entered guilty pleas.

Elder stated that he opposes the continuance but understands he has no speedy trial argument. The parties agreed that they wanted the case to remain before the undersigned for trial and that they would work with the Court to find a trial date acceptable to all parties. Counsel for defendant Johnson requested additional time to file pretrial motions.

On February 11, 2010, the Court proposed a special trial setting of June 21 to the parties. The Court has not been advised of any opposition to the proposed special setting.

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 June 21, 2010, and that failure to grant a continuance would deny defense counsel the reasonable time necessary for effective preparation and, thus, would deny the defendants their 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 #273) is granted. This

case is removed from the special trial setting of February 23, 2010. It is further

ORDERED that this criminal action is specially set for trial on June 21, 2010. It is further

ORDERED that, pursuant to 18 U.S.C. section 3161(h), the time between the date of this Order and June 21, 2010, shall be excluded in computing the time within which this trial must commence. It is further

ORDERED that all pretrial motions shall be filed on or before March 1, 2010.

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