

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	10-00162-01-CR-W-FJG
)	
ALFONSO VELO, et al.,)	
)	
Defendants.)	

ORDER

On July 12, 2011, Defendant Velo filed a Motion to Modify Order (Doc. No. 425).

In support of the motion, defense counsel states as follows:

1. Defendant Russell filed a motion to continue trial.
2. Defense counsel Melanie S. Morgan advised Ms. Carol Wilson that she had no objection to the continuance as Mr. Velo was set for a change of plea hearing on July 8, 2011.
3. The Court granted defendant's Russell's motion. However, the Order pertained only to those defendants who had not been scheduled for a change of plea.
4. The change of plea hearing in Mr. Velo's case has been canceled and has not yet been rescheduled although that is anticipated. Mr. Velo's case continues to be joined with the remaining defendants, no motion for severance of any of the defendants has been granted and thus the time for which this case must be brought to trial is tolled pursuant to 18 U.S.C. 3161(h)(6).

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.

The court finds that, in light of the circumstances set out above, the ends of justice served by modifying the July 6, 2011 continuance order to include Defendant Velo outweigh the best interest of the public and the defendant in a speedy trial.

The court, in modifying the July 6, 2011 continuance order to include Defendant Velo, is not doing so because of congestion of the court's calendar, in accordance with § 3161(h)(8)(c). Accordingly, it is

ORDERED that Defendant Velo's motion is granted. The July 6, 2011 continuance order is modified to include Defendant Velo. Defendant Velo is now set on the joint criminal jury trial docket commencing February 13, 2012. It is further

ORDERED that, pursuant to 18 U.S.C. § 3161(h), the time between the date of this order and February 13, 2012, shall be excluded in computing the time within which the trial of this criminal action must commence.

/s/Fernando J. Gaitan, Jr.
FERNANDO J. GAITAN, JR.
Chief United States District Judge

Kansas City, Missouri
July 18, 2011