

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Criminal Action No.
)	09-00296-01/06-CR-W-FJG
JOHN ANGELL,)	
ERIC BURKITT,)	
ROBERT STEWART,)	
JAMES COX,)	
STEVE LARSON,)	
and)	
NICHOLAS DONKERSLOOT,)	
)	
Defendants.)	

ORDER DENYING MOTION TO CONTINUE

Before the court is defendant Nicholas Donkersloot's motion to continue the trial until the February 16, 2010, trial docket. In support of the motion, defendant states in part as follows:

1. Mr. Donkersloot has been named in a[n] indictment charging six individuals with conspiracy to distribute more than five hundred grams of methamphetamine. The indictment also charges one of the six, Mr. Angell, with witness tampering.
2. On October 5, 2009, Mr. Donkersloot first appeared before the Honorable Robert Larsen, United States Magistrate Judge, in connection with this matter. Mr. Donkersloot was released on his own recognizance, upon conditions. That same date, undersigned counsel entered his appearance for Mr. Donkersloot.
3. Counsel has not yet received discovery from the government concerning this case. Counsel has not had, and by December 7, 2009 will not have had sufficient time to investigate the case and prepare the case for trial.

Defendant Angell has no objection to the motion to continue; however, the other defendants do object. I held a teleconference on November 10, 2009, during which the government represented that the complete file has been available to defense counsel since September 24, 2009, and that the file was subsequently provided in electronic form. The defendants who object to the continuance are incarcerated.

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 taking such action outweigh the best interest of the public and the defendant in a speedy trial.

In light of the circumstances described above, I do not find that the ends of justice served by removing this criminal action from the joint criminal jury trial docket which will commence December 7, 2009, outweigh the best interest of the public and the defendants in a speedy trial. The government indicated that it would prefer the second week of the trial docket due to the availability of witnesses, and counsel for Mr. Donkersloot stated that the extra week would be helpful. Therefore, it is

ORDERED that the motion to continue is denied.

/s/ Robert E. Larsen

ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
November 12, 2009