

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

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**GERALD A. POYNTER, II**

Defendant.

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Case No. 11-00223-01-CR-W-ODS

**MOTION OF DEFENDANT GERALD POYNTER  
FOR CONTINUANCE OF TRIAL SETTING,  
WITH SUGGESTIONS IN SUPPORT**

COMES NOW Defendant Gerald Poynter, by and through his undersigned attorney, and moves the Court to continue the above-captioned cause from the trial setting of November 28, 2011, until the joint criminal jury trial docket commencing in April, 2012.

IN SUPPORT of this Motion, Defendant states as follows:

1. Defendant is charged in a Seventy-Two Count Indictment returned September 21, 2011, along with thirteen co-defendants, with engaging in a conspiracy to defraud the Internal Revenue Service, in violation of 18 U.S.C. § 286, and various defendant are charged with substantive offenses of filing false or fraudulent claims for income tax refunds, in violation of 18 U.S.C. §§ 287 and 2. Following his first appearance and arraignment on October 6, 2011, defendant was released on bond pending trial. This case is currently set on the criminal docket commencing November, 28, 2011.

2. Defense counsel has been provided with is a significant amount of discovery in this case, and expects to receive an additional 10,000 pages of discovery within the next few weeks.

Counsel needs sufficient time to meet with defendant and review the extensive discovery, and to discuss the charges and possible defenses, any pretrial motions, the sentencing guidelines applications, and make a decision whether this case is for plea or trial. These tasks cannot be accomplished before the November, 2011, trial setting.

3. Defendant Poynter consents to this continuance request, and waives his rights under the Speedy Trial Act.

4. Counsel for the government, Dan Nelson and Tom Larson, do not object to this request for a continuance, and suggest a trial date in March or April, 2012. Counsel for various defendants who have been contacted likewise suggest a trial date in March or April, 2012.

5. This continuance is not sought for the purpose of delay, but is sought so that defendant may be afforded due process of law under the Fifth Amendment and effective assistance of counsel under the Sixth Amendment to the U.S. Constitution. It is submitted these reasons outweigh the interest of the public and defendant to a speedy trial under 18 U.S.C. Sec. 3161(c)(1).

6. The delay in trial resulting from this motion should be excluded in computing the period of time within which defendant should be brought to trial under the Speedy Trial Act.

WHEREFORE, Defendant prays that this Court continue the above-captioned cause from the trial setting of November 28, 2011, until the joint criminal jury trial docket commencing in April, 2012.

/s/Ronald E. Partee  
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Attorney for Defendant Gerald Poynter

### **CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 2011, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notification to the following: Daniel M. Nelson and Thomas M. Larson, Assistant United States Attorneys, and all counsel of record.

/s/ Ronald E. Partee