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11 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 JEFFREY FORTENBERRY,

18 Defendant.

Case No. 2:21-cr-00491-SB

STIPULATION REGARDING REQUEST
FOR (1) CONTINUANCE OF TRIAL
DATE AND (2) FINDINGS OF
EXCLUDABLE TIME PERIODS
PURSUANT TO SPEEDY TRIAL ACT

Current Schedule:

Indictment: 10/19/2021

Pretrial Conference: 12/7/2021 at 8 a.m.

Trial: 12/14/2021 at 8:30 a.m.

Last Day: 12/29/2021

Proposed Schedule:

Proposed Pretrial Conference: 2/8/2022 at
8 a.m.

Trial: 2/15/2022 at 8:30 a.m.

Last Day: 3/2/2022

25 Plaintiff, United States of America, by and through its counsel of record, the
26 Acting United States Attorney for the Central District of California and Assistant
27 United States Attorneys Mack E. Jenkins and Susan S. Har, and defendant JEFFREY
28

1 FORTENBERRY (“defendant”), by and through his counsel of record, John Littrell and
2 Ryan Fraser, hereby stipulate as follows:

3 1. The Indictment in this case was filed on October 19, 2021. Defendant first
4 appeared before a judicial officer of the court in which the charges in this case were
5 pending on October 20, 2021. The Speedy Trial Act, 18 U.S.C. § 3161, originally
6 required that the trial commence on or before December 29, 2021.

7 2. On October 20, 2021, the Court set a trial date of December 14, 2021 and a
8 final pretrial conference date of December 7, 2021.

9 3. Defendant is released on bond pending trial. The parties estimate that the
10 trial in this matter will last approximately 2-3 days.

11 4. By this stipulation, defendant moves to continue the trial date to February
12 15, 2022 and the final pretrial conference date to February 8, 2022. This is the first
13 request for a continuance.

14 5. Defendant has filed four pre-trial motions on November 9, 2021. (See Dkt.
15 Nos. 17, 19, 20, 21.) The parties have met and conferred and request the following
16 briefing and hearing schedule for defendant’s four pre-trial motions: (1) oppositions to
17 be filed by November 23, 2021; (2) reply briefs to be filed by November 30, 2021; and
18 (3) hearing on the motions to be held on December 7, 2021 at 8:00 a.m. The parties
19 agree and request that defendant’s motion to dismiss for lack of venue (Dkt. No. 14),
20 remain on calendar for a hearing on November 23, 2021 at 8:00 a.m.

21 6. Defendant requests the continuance based upon the following facts, which
22 the parties believe demonstrate good cause to support the appropriate findings under the
23 Speedy Trial Act:

24 a. Defendant is charged with a violation of 18 U.S.C. § 1001(a)(1):
25 Falsifying and Concealing Material Facts, and violations of 18 U.S.C. § 1001(a)(2):
26 Making False Statements. The government has produced discovery to the defense,
27 including over 11,600 pages of written communications, reports, transcripts, articles,
28 and other records and over 50 audio/visual recordings.

1 b. Counsel for defendant represents that additional time is necessary to
2 review the voluminous discovery and evidence in this case and to conduct and complete
3 an independent investigation of the case to prepare the defense, including by meeting
4 with and preparing potential witnesses, including possible expert witnesses. Defense
5 counsel further represents that he needs additional time to confer with defendant, to
6 conduct and complete legal research, including for additional pre-trial motions and
7 motions in limine, and to prepare for trial in the event that a pretrial resolution does not
8 occur. Defense counsel represents that failure to grant the continuance would deny him
9 reasonable time necessary for effective preparation, taking into account the exercise of
10 due diligence.

11 c. On November 2, 2021, defendant filed a motion to dismiss for lack
12 of venue. (Dkt. No. 14.) The motion remains pending before the court, and is
13 scheduled to be heard on November 23, 2021 at 8:00 a.m.

14 d. Defendant believes that failure to grant the continuance will deny
15 him continuity of counsel and adequate representation.

16 e. The government does not object to the continuance.

17 f. The requested continuance is not based on congestion of the Court's
18 calendar, lack of diligent preparation on the part of the attorney for the government or
19 the defense, or failure on the part of the attorney for the Government to obtain available
20 witnesses.

21 7. For purposes of computing the date under the Speedy Trial Act by which
22 defendant's trial must commence, the parties agree that the time period of December
23 14, 2021 to February 15, 2022, inclusive, should be excluded pursuant to 18 U.S.C.
24 §§ 3161(h)(7)(A), (h)(7)(B)(i) and (h)(7)(B)(iv) because the delay results from a
25 continuance granted by the Court at defendant's request, without government objection,
26 on the basis of the Court's finding that: (i) the ends of justice served by the continuance
27 outweigh the best interest of the public and defendant in a speedy trial; (ii) failure to
28 grant the continuance would be likely to make a continuation of the proceeding

impossible, or result in a miscarriage of justice; and (iii) failure to grant the continuance would unreasonably deny defendant continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

8. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods be excluded from the period within which trial must commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the future authorize the exclusion of additional time periods from the period within which trial must commence.

IT IS SO STIPULATED.

DATED: November 9, 2021

TRACY L. WILKISON
Acting United States Attorney

SCOTT M. GARRINGER
Assistant United States Attorney
Chief, Criminal Division

/s/ Susan Har
MACK E. JENKINS
SUSAN S. HAR
Assistant United States Attorneys

Attorneys for Plaintiff
UNITED STATES OF AMERICA

DATED: November 9, 2021

/s/ per email authorization
JOHN LITTRELL
RYAN FRASER
Attorneys for Defendant
JEFFREY FORTENBERRY

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEFFREY FORTENBERRY,

Defendant.

Case No. 2:21-cr-00491-SB

[PROPOSED] ORDER CONTINUING
TRIAL DATE AND FINDINGS
REGARDING EXCLUDABLE TIME
PERIODS PURSUANT TO SPEEDY
TRIAL ACT

Proposed Schedule:
Indictment: 10/19/2021
Proposed Pretrial Conference: 2/8/2022 at
8 a.m.
Trial: 2/15/2022 at 8:30 a.m.
Last Day: 3/2/2022

The Court has read and considered the Stipulation Regarding Request for (1) Continuance of Trial Date and (2) Findings of Excludable Time Periods Pursuant to Speedy Trial Act, filed by the parties in this matter on November 9, 2021. The Court hereby finds that the Stipulation, which this Court incorporates by reference into this Order, demonstrates facts that support a continuance of the trial date in this matter, and provides good cause for a finding of excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161.

The Court further finds that: (i) the ends of justice served by the continuance outweigh the best interest of the public and defendant in a speedy trial; (ii) failure to grant the continuance would be likely to make a continuation of the proceeding impossible, or result in a miscarriage of justice; and (iii) failure to grant the continuance would unreasonably deny defendant continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

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1 THEREFORE, FOR GOOD CAUSE SHOWN:

2 1. The trial in this matter is continued from December 14, 2021, to February
3 15, 2022, at 8:30 a.m. The final pretrial conference hearing is continued to February 8,
4 2022, at 8:00 a.m.

5 2. The briefing schedule for the defendant's four pre-trial motions filed on
6 November 9, 2021 (see Dkt. Nos. 17, 19, 20, 21) is as follows: (1) the last day to file
7 oppositions is November 23, 2021; and (2) the last day to file any reply briefs is
8 November 30, 2021. The hearing on these pre-trial motions will be December 7, 2021
9 at 8:00 a.m. Defendant's motion to dismiss for lack of venue, which was filed on
10 November 2, 2021 (Dkt. No. 14), will remain on calendar for a hearing on November
11 23, 2021 at 8:00 a.m.

12 3. The time period of December 14, 2021, to February 15, 2022, inclusive, is
13 excluded in computing the time within which the trial must commence, pursuant to 18
14 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv). Under the Speedy Trial Act, the last
15 day for trial to commence would be March 2, 2022.

16 4. Nothing in this Order shall preclude a finding that other provisions of the
17 Speedy Trial Act dictate that additional time periods are excluded from the period
18 within which trial must commence. Moreover, the same provisions and/or other
19 provisions of the Speedy Trial Act may in the future authorize the exclusion of
20 additional time periods from the period within which trial must commence.

21 IT IS SO ORDERED.

22
23
24 _____
DATE

HON. STANLEY BLUMENFELD, JR.
UNITED STATES DISTRICT JUDGE

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