

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
)	
v.)	No. 3:06-00204
)	JUDGE ECHOLS
)	
BARRY R. STOKES)	

**MOTION AND INCORPORATED MEMORANDUM TO
CONTINUE TRIAL AND TO SET DATE TO FILE PRETRIAL MOTIONS**

NOW COMES the defendant, Barry R. Stokes, who through undersigned counsel, respectfully requests that this Honorable Court enter an order continuing the trial presently scheduled for May 22, 2007, and to set a new filing date for pretrial motions. The reasons for this motion are as follows:

1. Title 18, United States Code, Section 3161(h)(8)(A) provides, in pertinent part, that any period of delay resulting from a continuance, granted on the basis of a court's findings, upon a motion by the defendant or his attorney, or upon the court's own motion, that the ends of justice served by the granting of a continuance outweigh the best interest of the public and the defendant in a speedy trial, shall be excluded in computing the time within which the trial must commence.

2. The factors which a judge shall consider in determining whether to grant a continuance are found in subsection 3161(h)(8)(B)(iv). One such factor is whether denial

of a continuance would deny counsel for the defendant “the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.” Another such factor is whether failure to grant a continuance would result in “a miscarriage of justice,” 18 U.S.C. § 3161(h)(8)(b)(I) or whether because of the complexity of the case, “it is unreasonable to expect adequate preparation” by the trial date. 18 U.S.C. § 3161(h)(8)(b)(ii).

3. Undersigned counsel was appointed to represent Mr. Stokes in this case on January 18, 2007. A continuance of the trial date and the filing deadline for pretrial motions is necessary, in the interests of justice, because undersigned counsel has not had sufficient time to complete the investigation and preparation of this case. This is a very complex case and is indeed the most complex case that undersigned counsel has ever handled in his legal career. At this point the government has now furnished counsel with over 20,000 pages of discovery and counsel is still in the process of reviewing and analyzing this voluminous material and much of this material is financial in nature. Counsel believes that the government is in the process of obtaining additional discovery materials as well and he will need additional time to review and investigate any issues related to that material as well. Additionally, there are scores of witnesses that counsel is in the process of interviewing concerning this case and that process is not complete.

4. Counsel has spent many hours in the preparation of this case up to this point, while also handling a very heavy case load, and it is estimated that hundreds more hours of attorney and investigator time will be required in order to properly prepare this case for trial. Counsel has exercised due diligence in the preparation of this case but despite that due diligence, he is not ready for trial and needs additional time to prepare. Counsel believes that he needs approximately six (6) more months of time to adequately prepare this case for trial.

5. A new filing date for pretrial motions is also required so that undersigned counsel may file any appropriate motions, if necessary, after a thorough and complete investigation of this case and research into relevant statutes and case law.

6. Undersigned counsel has discussed this matter with Courtney Trombly, Assistant United States Attorney, who is handling the case for the government, and she is in agreement that a continuance should be granted because she recognizes that counsel for the defendant has not had sufficient time to prepare despite his due diligence. Both parties respectfully believe that a continuance is necessary, in the ends of justice, in order to provide the defendant with adequate time to prepare. Ms. Trombly has a trial scheduled in September 2007 and, thus, both parties respectfully request that this Court schedule the

trial for early October 2007 or such other time after that date that is convenient for the Court.

7. Mr. Stokes is in agreement that a continuance should be granted in this case and he has personally signed a speedy trial waiver that is filed contemporaneously with this motion.

WHEREFORE, for the reasons above stated, the defendant, Barry R. Stokes, respectfully requests that this Honorable Court continue the presently scheduled trial date and the motions filing deadline and the defendant submits that the period of time from the current trial date, May 22, 2007, until the new trial date should be excluded from the computation of time under the speedy trial act.

Respectfully submitted,

s/ R. David Baker

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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2007, I electronically filed the foregoing *Motion and Incorporated Memorandum to Continue Trial and to Set Date to File Pretrial Motions* with the clerk of the court by using the CM/ECF system, which will send a Notice of Electronic Filing to the following: Courtney Trombly, Assistant United States Attorney, 110 Ninth Avenue South, Suite A961, Nashville, TN 37203.

s/ R. David Baker
R. DAVID BAKER