

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

UNITED STATES OF AMERICA,)	
)	CASE NO. 3:23-cr-48-MOC
v.)	
GREG E. LINDBERG)	

CONSENT MOTION TO CONTINUE TRIAL DATE

DEFENDANT Gregory E. Lindberg (“Defendant” or “Mr. Lindberg”), through counsel, respectfully moves the Court to continue the date for the trial of this case under the provisions of 18 U.S.C. § 3161(h)(7)(A) and (B)(ii). Defendant respectfully requests that the current setting for July 2023 be moved to a status conference three months after the completion of an unrelated but similarly complex case, *United States v. Lindberg, et al.*, Case No. 5:19-cr-22-MOC, and to adjust the pretrial deadlines accordingly. Based on the current setting of that trial, both the Defendant and the Government respectfully request that such status conference be set during or after February 2024. Defendant’s counsel has conferred with counsel for the Government, who have indicated that they consent to the relief requested herein. In support thereof, Defendant shows the Court the following:

BACKGROUND

Defendant was indicted on February 23, 2023, in an Indictment alleging violations of Title 18, United States Code, Sections 1033 and 1343, and Title 15, United States Code, Sections 80b-6 and 80b-17. The Indictment alleges that the conduct at issue took place no later than in or around 2016 through at least in or around 2019.

The case is currently on the Court's July 2023 trial calendar. As of May 26, 2023, Defendant has received three discovery productions from the Government (the most recent of which was received on May 19, 2023) totaling over one million documents, which run to over 7.5 million pages and are nearly 2.5 terabytes in size.

JUSTIFICATION FOR CONTINUANCE

Pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court can grant an “ends of justice” continuance “at the request of the Defendant, his counsel, or at the request of the attorney for the Government, if the judge grant[s] such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” *Id.* One of the factors the Court may consider in granting an “ends of justice” continuance is “[w]hether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.” 18 U.S.C. § 3161(h)(7)(B)(ii).

This case is “complex” within the meaning of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(B)(ii), due to the nature of the prosecution, specifically, the complexity of the facts and laws related to the substantive offenses alleged in the indictment, as well as the voluminous nature of discovery materials electronically stored and acquired from searches, subpoenas, voluntary disclosures, and other investigative methods. As of the filing of this Motion, the Government has informed defense counsel it expects to provide further productions of documents. Discussions between the Government and defense counsel are ongoing concerning the format and timing of the productions. The discovery in this case includes, but is not limited to, significant amounts of

highly technical restructuring transactions, financial records, advisory agreements, and insurance information.

As discovery productions continue, defense counsel will need time to review and assess the information and documents to prepare for what is anticipated to be a lengthy trial. The defense will also need time to conduct its own investigation based on the information contained in the produced materials.

The complexity of the charges, and the severity of the potential sentence, along with the volume and nature of discovery make it highly likely that this case will involve significantly more attorney time than the average criminal case. Defense counsel expect to expend a substantial amount of time reviewing discovery materials, investigating facts, and researching legal issues. Further, Mr. Lindberg is a defendant in an unrelated but similarly complex criminal case that is currently scheduled to be tried during the Court's November 2023 term. *See United States v. Lindberg, et al.*, Case No. 5:19-cr-00022-MOC. Mr. Lindberg is represented by the same counsel in both proceedings, and counsel will need adequate time to prepare for both complex cases. Consequently, Defendant respectfully requests that this matter be continued.

This continuance is not sought for purposes of delay, but so that Defendant may be afforded due process of law under the Fifth Amendment to the United States Constitution. Counsel for Defendant will need time to review said discovery once received. Accordingly, this continuance is necessary under the provisions of 18 U.S.C. § 3161(h)(7)(B)(i) because the failure to grant this continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and it would result in a miscarriage of justice. As noted above, the Government consents to the continuance requested herein.

Based on the foregoing information, Defendant respectfully requests that the Court issue a written order finding that (1) the ends of justice served by the granting of a trial continuance outweigh the best interests of the public and the defendants in a speedy trial; (2) the case is so complex within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii) that it is unreasonable to expect adequate preparation for pretrial or trial proceedings can take place within the time limits of 18 U.S.C. § 3161; and (3) a continuance of the trial date for the duration set forth in this motion is therefore necessary. The Defendant further requests that the Court reset the case for a status conference three months after the conclusion of *United States v. Lindberg* (Case No. 5:19-cr-00022), and extend the pretrial motions deadline to thirty (30) days prior to the new trial setting.

This, the 26th day of May, 2023.

Respectfully Submitted,

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