

1 STEPHANIE M. HINDS (CABN 154284)
2 Acting United States Attorney

3 HALLIE HOFFMAN (CABN 210020)
4 Chief, Criminal Division

5 MARJA-LIISA OVERBECK (CABN 261707)
6 Assistant United States Attorney

7 1301 Clay Street, Suite 340S
8 Oakland, California 94612
9 Telephone: (510) 637-3680
10 FAX: (510) 637-3724
11 mari.overbeck@usdoj.gov

12 Attorneys for United States of America

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 OAKLAND DIVISION

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 LUIS RENDEROS AVALOS,

20 Defendant.

21) NO. 20-MJ-71773-MAG

22) STIPULATED [PROPOSED] ORDER
23) CONTINUING PRELIMINARY HEARING DATE
24) AND EXCLUDING TIME FROM THE SPEEDY
25) TRIAL ACT CALCULATION

26 Defendant Luis Renderos Avalos appeared before the Court on December 10, 2020 for an initial
27 appearance and December 14, 2020 for a detention hearing in the above-captioned case. Following the
28 detention hearing, the Honorable Laurel Beeler set an arraignment/preliminary hearing for January 20,
29 2021, which by stipulated orders the parties have continued to February 26, 2021, March 19, 2021, and
30 April 23, 2021. The parties now ask for a continuance and exclusion of time through May 7, 2021 for
31 the reasons identified below.

32 1. Since Mr. Avalos's initial appearance, the government has produced discovery to the
33 defendant's counsel in this matter, and defense counsel is in the process of reviewing this discovery and
34 discussing it with Mr. Avalos in order to prepare a defense. The government has also proposed a

35 STIPULATION TO EXCLUDE TIME AND [PROPOSED] ORDER
36 Case No. 20-mj-71773

37 **FILED**

38 Apr 23 2021

39 SUSAN Y. SOONG
40 CLERK, U.S. DISTRICT COURT
41 NORTHERN DISTRICT OF CALIFORNIA
42 OAKLAND

1 potential pre-indictment resolution in this matter, which Mr. Avalos and his counsel also are in the
2 process of discussing.

3 2. The parties believe that failure to grant the continuance would deny Mr. Avalos and his
4 counsel reasonable time necessary for effective preparation, taking into account the exercise of due
5 diligence and their availability. As such, undersigned counsel request a new hearing date of May 7,
6 2021.

7 3. Defense counsel represents that his client understands that he has a right under 18 U.S.C.
8 § 3161(b) to be charged by information or indictment with the offense alleged in the pending criminal
9 complaint and that his client knowingly and voluntarily waives that right and agrees to continue to
10 exclude the time to be charged by indictment through May 7, 2021. Defense counsel further represents
11 that his client knowingly and voluntarily waives the timing for preliminary hearing under Federal Rule
12 of Criminal Procedure 5.1 through May 7, 2021. This waiver of time will allow time for defense
13 counsel to review the discovery with Mr. Avalos and will additionally allow the parties to continue to
14 attempt to resolve this matter pre-indictment.

15 4. For purposes of computing the date under Rule 5.1 of the Federal Rules of Criminal
16 Procedure for preliminary hearing, and the date under the Speedy Trial Act by which defendants must be
17 charged by indictment or information, the parties agree that the time period of April 23, 2021, through
18 May 7, 2021, inclusive, should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i) and
19 (h)(7)(B)(iv), on the basis that: (i) the ends of justice served by the continuance outweigh the best
20 interest of the public and defendant in the filing of an information or indictment within the period
21 specified in 18 U.S.C. § 3161(b); and (ii) failure to grant the continuance would unreasonably deny
22 defense counsel the reasonable time necessary for effective preparation, taking into account the exercise
23 of due diligence and the availability of defense counsel. The parties agree that timing for a preliminary
24 hearing under Rule 5.1 should additionally be waived for this same period.

25 5. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy
26 Trial Act dictate that additional time periods be excluded from the period within which an information
27 or indictment must be filed.

28 The undersigned Assistant United States Attorney certifies that she has obtained approval from
STIPULATION TO EXCLUDE TIME AND [PROPOSED] ORDER
Case No. 20-mj-71773

1 counsel for the defendant to file this stipulation and proposed order.

2 IT IS SO STIPULATED.

3 DATED: 4/22/2021

4

/s/
MARJA-LIISA OVERBECK
Assistant United States Attorney

5 DATED: 4/22/2021

6

/s/
ERICK GUZMAN
Counsel for Defendant Luis Renderos Avalos

7

8

9 **[PROPOSED] ORDER**

10 The Court has read and considered the Stipulation Regarding Request for (1) Continuance of
11 Hearing Date and (2) Findings of Excludable Time Period Pursuant to Speedy Trial Act, filed by the
12 parties in this matter. The Court hereby finds that the Stipulation, which this Court incorporates by
13 reference into this Order, demonstrates facts that support a continuance in this matter, and provides good
14 cause for a finding of excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, as well as to
15 waive the timing for preliminary hearing under Rule 5.1 of the Federal Rules of Criminal Procedure.

16 The Court further finds that: (i) the ends of justice served by the continuance outweigh the best
17 interest of the public and defendant in the filing of an information or indictment within the time period
18 set forth in 18 U.S.C. § 3161(b); and (ii) failure to grant the continuance would unreasonably deny
19 defense counsel the reasonable time necessary for effective preparation, taking into account the exercise
20 of due diligence and the availability of defense counsel.

21 THEREFORE, FOR GOOD CAUSE SHOWN: IT IS SO ORDERED.

22 The hearing for preliminary hearing and arraignment on information or indictment in this matter
23 currently scheduled for April 23, 2021 before this Court is continued to 1:00 p.m. on May 7, 2021. The
24 time period of April 23, 2021, through May 7, 2021, inclusive, is excluded in computing the time within
25 which an information or indictment must be filed under 18 U.S.C. § 3161(b) pursuant to the provisions
26 of 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv), and timing for preliminary hearing under Rule
27 5.1 of the Federal Rules of Criminal Procedure is waived for that period.

28 Nothing in this Order shall preclude a finding that other provisions of the Speedy Trial Act

STIPULATION TO EXCLUDE TIME AND **[PROPOSED]** ORDER
Case No. 20-mj-71773

1 dictate that additional time periods are excluded from the period within which an information or
2 indictment must be filed.

3
4 DATED: April 23, 2021



5 HON. ROBERT M. ILLMAN
6 United States Magistrate Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28