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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE JANIS L. SAMMARTINO)

UNITED STATES OF AMERICA,

Plaintiff,

v.

RONALD VINICIO ALVARADO PISCO (1),
LUIS FERNANDO VALENCIA (2),
VALDEMAR VALLECILLA PRADO (3),
ALVARO ISRAEL ONTIVEROS
VALDEZ (4),

Defendants.

CASE NO.: 21-cr-2293-JLS

**ORDER GRANTING JOINT
MOTION TO CONTINUE
MOTION HEARING AND
EXCLUDE TIME UNDER THE
SPEEDY TRIAL ACT**

Upon the joint motion of the parties, and good cause appearing, the Court GRANTS the parties' joint motion to continue the Motion Hearing/Trial Setting and GRANTS the parties' joint motion to exclude time under the Speedy Trial Act, Title 18 U.S.C. § 3161(h). Accordingly, the Motion Hearing/Trial Setting set for January 14, 2022 at 1:45 p.m. is vacated and continued to March 18, 2022 at 1:45 p.m. The Court makes the following factual findings, which apply to the exclusion of time under the Speedy Trial Act.

There are pending pretrial motions on file in this case that require a hearing before the Court. Accordingly, the Court continues the pending pretrial motions to the new

1 hearing date and finds valid excludable time under the Speedy Trial Act, 18 U.S.C. §
2 3161(h)(1)(D), from the date of the filing of the first pending pretrial motion (Doc. No.
3 48) to the date of the new Motion Hearing/Trial Setting scheduled for February 14, 2022.
4 See United States v. Tinklenberg, 563 U.S. 647, 650 (2011) (Holding that time resulting
5 from the filing of a pretrial motion falls within the Speedy Trial Act’s exclusion
6 irrespective of whether it actually causes, or is expected to cause delay in starting a trial.);
7 See also United States v. Medina, 524 F.3d 974, 979 (9th Cir. 2008) (Holding that when
8 a pending discovery motion is “continued until a date certain or the happening of an event
9 certain” a “district court must exclude time while the motion is pending even if the court
10 ultimately does not hold a hearing or rule on the motion.”) (citing United States v. Sutter,
11 340 F.3d 1022, 1029-32 (9th Cir. 2003)); United States v. Van Brandy, 726 F.2d 548,
12 551 (9th Cir. 1984) (“While [a defendant] had a motion pending during the critical period,
13 any delay attributable to him is equally attributable to all co-defendants[.]”) (citing Title
14 18 U.S.C. § 3161(h)(7); United States v. Davis, 679 F.2d 845, 849-50 (11th Cir.1982)).

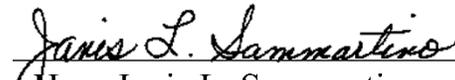
15 Taking into account the exercise of due diligence by defense counsel, the Court
16 finds that the voluminous discovery and the nature of the charges make it unreasonable
17 to expect adequate preparation for pretrial proceedings and the trial itself within the time
18 limits established by the Speedy Trial Act. Furthermore, the failure to grant the requested
19 continuance would deny defense counsel the reasonable time necessary for effective
20 preparation and would result in a miscarriage of justice. Therefore, the Court finds that
21 time is excluded under 18 U.S.C. § 3161(h)(7)(A) and (B) from the date of this order to
22 the new Motion Hearing/Trial Setting scheduled for March 18, 2022, and further finds
23 that the ends of justice served by granting a continuance outweigh the best interests of
24 the public and the defendant in a speedy trial. See United States v. Tanh Huu Lam, 251
25 F.3d 852, 858 (9th Cir.), as amended on denial of reh'g and reh'g en banc sub nom. United
26 States v. Lam, 262 F.3d 1033 (9th Cir. 2001) (“[D]eclin[ing] to permit a defendant's
27 interest in a speedy trial to override his attorney’s legitimate assessment of the complexity
28 of a case and his corresponding need to prepare” and further noting that “[t]o hold

1 otherwise would risk setting up an irreconcilable conflict with a defendant’s right to
2 effective assistance of counsel[.]”).

3 The Court also excludes time in the interest of justice in light of the current
4 pandemic and for the reasons stated in the parties joint motion (Doc. No. 87) and the
5 Order of the Chief Judge No. 63-G (S.D. Cal. December 23, 2021) (Sabraw, C.J.); See
6 also In re Approval of the Judicial Emergency Declared in the S. Dist. of California, 955
7 F.3d 1135, 1136 (9th Cir. 2020) (Thomas, C.J.); United States v. Olsen, 995 F.3d 683,
8 695 (9th Cir. 2021) (per curiam) (Holding that the district court “did not cast aside the
9 Sixth Amendment when it entered its emergency orders suspending jury trials based on
10 unprecedented public health and safety concerns.”). Even beyond the period of the
11 judicial emergency, the current health emergency including the recent quarantine
12 restrictions imposed by the detention facilities would likely hinder necessary steps the
13 parties would take to meet with witnesses and trial teams, to resolve pretrial disputes
14 between parties, and otherwise adequately prepare for pretrial proceedings or the trial
15 itself within the time limits established by the Speedy Trial Act. For these reasons, the
16 Court excludes time from the date of this order to March 18, 2022 under the interest of
17 justice provisions of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B).

18 **SO ORDERED.**

19 Dated: January 11, 2022


20 Hon. Janis L. Sammartino
21 United States District Judge