IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America

v. Case No. 2:05-cr-152

Silvestre Brambila, et al.

ORDER

This matter is before the court for a ruling on the government's motion to continue the trial date of April 10, 2006, applicable to some of the defendants in this case. Defendant Abraham Brambila objects to the continuance, but his counsel has indicated that he would be available on the proposed trial date of June 12, 2006. No other defendant has objected to the continuance.

The instant case is a drug conspiracy involving multiple defendants. Fifteen defendants were named in the superseding indictment filed on June 30, 2006. The case was originally scheduled for trial on August 22, 2006. The trial was continued to December 12, 2005, upon the motion of defendant Abraham Brambila. Some of the fugitive codefendants were subsequently arrested, and on November 7, 2005, the trial was continued to April 10, 2006. On March 5, 2006, defendant Silvestre Brambila filed a motion to continue the trial to permit newly retained counsel to prepare for trial. On March 13, 2006, this court entered an order continuing the trial to April 24, 2006. However, counsel for defendant Molina requested reconsideration of this order, indicating that he would not be available for trial on that date.

At this point, seven defendants remained in the case who had not signed plea agreements, entered guilty pleas, or been dismissed. This court concluded that it would not be possible to

conduct a joint trial involving seven defendants due to the space limitations of the courtroom, the demands placed upon the interpreters, the security concerns inherent in the fact that six of the defendants are in custody, and the need to seat additional marshals in the courtroom. Based on these considerations, as well as the need to ensure continuity of counsel (in the case of Arnoldo Molina) and to give new counsel adequate time to prepare (in the case of Silvestre Brambila), the court entered an order on March 16, 2006, continuing the trial of defendants Silvestre Brambila and Arnoldo Molina to June 12, 2006. The court rescheduled the trial of the other remaining defendants, Orencio Brambila, Amador Brambila Gonzales aka Jesus Orosco Brambila, Abraham Brambila, Frank Acevedo aka Juan Martinez-Guzman, and Javier Brambila, on the previous date of April 10, 2006.

Since that time, defendant Amador Brambila Gonzales has pleaded guilty, and plea agreements signed by defendants Silvestre Brambila and Frank Acevedo have been filed. There are now four defendants awaiting trial. This is a number of defendants which could be tried reasonably and fairly in a single proceeding. The government requests that the trial of the three defendants scheduled on April 10th be reconsolidated with the trial of Arnoldo Molina on June 12th. The government argues that a joint trial would conserve judicial resources as well as the government's resources, particularly since certified interpreters will be needed for trial. A single trial would also result in less inconvenience to witnesses who would otherwise be called to testify at two trials.

The government also states that additional time is required to enable the government to consult with the codefendants who have recently pleaded guilty or signed plea agreements. The government indicates that more time is needed to proffer these cooperating

codefendants with the goal of calling them as witnesses, particularly since the government must communicate with these defendants through interpreters. The government argues that it would be denied a fair trial if it is unable to call these codefendants as witnesses, and suggests that these codefendants may offer additional information which could contribute to plea negotiations with the remaining defendants.

The court finds pursuant to 18 U.S.C. §3161(h)(8) that a continuance is warranted in the interests of justice and that the need for a continuance outweighs the best interests of the individual defendants and the public in a speedy trial. The government requires additional time to prepare for trial and to consult with defendants who are now cooperating, despite the exercise of due diligence. A continuance would also permit a joint trial, which would serve the public interest in judicial economy and the conservation of government resources. The government's motion is granted, and the trial of defendants Orencio Brambila, Abraham Brambila, and Javier Brambila is continued to June 12, 2006, at 9:00 a.m. The request of defendant Abraham Brambila for release pending trial is denied.

Date: April 5, 2006

s\James L. Graham
James L. Graham
United States District Judge