

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN**

|                                             |   |                              |
|---------------------------------------------|---|------------------------------|
| <b>UNITED STATES OF AMERICA,</b>            | ) |                              |
|                                             | ) |                              |
| <b>Plaintiff,</b>                           | ) |                              |
|                                             | ) |                              |
| <b>v.</b>                                   | ) | <b>Case No. 3:21-cr-0009</b> |
|                                             | ) |                              |
| <b>GERALDO ALVERIO MORALES, JESUS</b>       | ) |                              |
| <b>JAVIER LEBRON PINTO, ALCIBIADES FLIS</b> | ) |                              |
| <b>BATISTA, and JOSHUA LABOY LOZADA,</b>    | ) |                              |
|                                             | ) |                              |
| <b>Defendants.</b>                          | ) |                              |
|                                             | ) |                              |

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**ORDER**

**BEFORE THE COURT** is the trial in this matter, currently scheduled for June 1, 2021. For the reasons stated herein, the time to try this case is extended up to and including March 7, 2022.

In response to the COVID-19 pandemic, the Chief Judge of the District Court of the Virgin Islands entered a general order concerning operations of the Court on March 17, 2020. The Chief Judge has thus far extended the order twelve times, finding that the ends of justice require excluding March 18, 2020, through May 31, 2021, from the Speedy Trial count in all criminal matters.

To date, the COVID-19 virus has claimed more than 590,000 lives (27 of which have been in the U.S. Virgin Islands). Current testing indicates that the rate of contraction of the virus is slowing in recent weeks. Notwithstanding the decrease in the incidence of COVID-19 in the Virgin Islands over the past few weeks, the Court finds that a continuance of the trial date in this case would be in the best interest of justice. Additionally, there are several motions pending disposition by the Court.<sup>1</sup> As a multi-defendant case, this case also presents

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<sup>1</sup> The United States filed a motion requesting an extension of the discovery deadline and an exclusion of time under the Speedy Trial Act on April 23, 2021, (ECF No. 53); Defendant Laboy filed a motion to dismiss criminal information on May 4, 2021, (ECF No. 56), which was joined by Defendants Batista, Pinto, and Morales, (ECF Nos. 58, 59, 61); Defendant Batista also filed a motion to dismiss information on May 17, 2021, [ECF No. 76]. The Speedy Trial Act excludes “[a]ny period of delay resulting from other proceedings concerning the defendant, including . . . (D) delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion . . .” 18 U.S.C. § 3161(h)(1).

*United States v. Morales, et al.*  
Case No.: 3:21-cr-0009  
Order  
Page 2 of 2

significant challenges for the Court to comply with social distancing guidelines during the jury trial. Practical considerations would require additional spacing for Defendants, counsel, and jurors—and the potential for additional jurors in the courtroom. As such, the Court finds that the ends of justice require extending the period within which Defendants may be tried under the Speedy Trial Act, for the protection and well-being of the Defendants, the jury, the prosecutors, the witnesses, the Court's personnel, and the general public at large.

The premises considered, it is hereby

**ORDERED** that the time beginning from the date of this order granting an extension through March 7, 2022, shall be excluded in computing the time within which the trial in this matter must be initiated pursuant to 18 U.S.C. § 3161; it is further

**ORDERED** that the parties shall file and serve a pre-trial brief no later than February 28, 2022, which shall include the following: (a) proposed list of witnesses; (b) proposed list of exhibits; (c) estimated length of case-in-chief and case-in-defense; (d) proposed non-standard *voir dire* questions; and (e) proposed non-standard jury instructions related to the elements of the charges and defenses; it is further

**ORDERED** that the parties shall provide the Clerk of Court with a USB Flash Drive containing electronic versions of exhibits no later than March 2, 2022;<sup>2</sup> and it is further

**ORDERED** that the jury selection and trial in this matter previously scheduled for June 1, 2021, are **RESCHEDULED** to commence promptly at 9:00 A.M. on March 7, 2022, in St. Thomas Courtroom 1.

**Dated:** May 25, 2021

/s/ Robert A. Molloy  
**ROBERT A. MOLLOY**  
**Chief Judge**

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<sup>2</sup> Counsel are advised to consult with Court technical staff to determine the proper format for saving electronic versions of exhibits. The Government's trial exhibits shall be labelled sequentially beginning with Government's Exhibit 1. Defense exhibits shall be labelled sequentially beginning with Defense Exhibit A.