

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:20-cr-0049
	)	
JORGE ROMERO-AMARO, GIOVANNI	)	
GRACIANI, HECTOR RIVERA CONCEPCION,	)	
RUBEN REYES, and PEDRO LUIS SAYAN	)	
VILLANUEVA,	)	
	)	
Defendants.	)	

ORDER

THIS MATTER comes before the Court *sua sponte*. Jury Selection and Trial is currently scheduled for November 7, 2022. However, due to a scheduling conflict,¹ the Court must continue this event.

The Court is prepared to continue the trial to December 5, 2022, but the Court recognizes that certain defense counsel are not available on that date. The Court further recognizes that scheduling this matter for trial on a date defense counsel or counsel for the government is not available would not serve the ends of justice. *See United States v. Fogarty*, 692 F.2d 542, 546 (8th Cir. 1982) (finding valid the court's finding "that one of the codefendant's counsel had a significant trial conflict which necessitated a continuance to assure 'continuity of counsel.'"); *United States v. Clark*, 577 F.3d 273, 279 (5th Cir. 2009) (upholding, *inter alia*, a continuance granted because the trial date conflicted with a trial that the Government was prosecuting in another city for which continuity of counsel was "extremely important"); *United States v. Lopez*, 426 F. App'x 260, 263 (5th Cir. 2011)

¹ During the status conference held on October 7, 2022, the Court informed the parties of a possible continuance of the November 7, 2022 trial date and requested the parties to submit notices of their respective unavailability. Counsel for the Government indicated he would not be available on December 2, 2022, December 5-13, 2022, December 19, 2022, and January 23-27, 2023. (ECF No. 193.) Counsel for Defendant Hector Rivera Concepcion indicated he would not be available from October 31 to November 9, 2022, from December 5, 2022 to January 6, 2023, and on January 30, 2023 and February 6, 2022. (ECF No. 194.) Counsel for Ruben Reyes indicated he would not be available from November 7 to 11, 2022, from November 17 to 27, 2022, from December 5-9, 2022, and from December 12-16, 2022. (ECF No. 197.)

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(upholding a continuance based on defense “counsel’s conflicting trial schedule”); *United States v. Carpenter*, 781 F.3d 599, 619 (1st Cir. 2015) (“The record is clear that the district court balanced counsels’ schedules with the public’s interest in a speedy trial, and thus its decision represents a determination that granting a continuance served the ends of justice.”).

While the Speedy Trial Act requires that defendants be tried within seventy days from the public filing of the charging document, the Act specifically excludes

Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted 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.

18 U.S.C. § 3161(h)(7)(A). Consistent with these concerns, the United States Court of Appeals for the Third Circuit has recognized that “whether or not a case is ‘unusual’ or ‘complex,’ an ‘ends of justice’ continuance may in appropriate circumstances be granted.” *United States v. Fields*, 39 F.3d 439, 444 (3d Cir. 1994). Based on the circumstances of his case, the Court finds that the ends of justice served by a continuance outweigh the best interest of the public and the Defendants in a speedy trial. Accordingly, it is hereby

ORDERED that the time beginning from the date of this order granting an extension through February 27, 2023, **SHALL** be excluded in computing the time within which the trial in this matter must be initiated pursuant to 18 U.S.C. § 3161.

ORDERED that the parties **SHALL** file and serve a pre-trial brief no later than February 17, 2023, 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 February 22, 2023;² and it is further

² 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.

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ORDERED that the Jury Selection and Trial in this matter **SHALL** commence promptly at 9:00 a.m. on February 27, 2023, in St. Thomas Courtroom 1.

Dated: October 21, 2022

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