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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD AYVAZYAN,
aka "Richard Avazian" and
"Iuliia Zhadko,"
MARIETTA TERABELIAN,
aka "Marietta Abelian" and
"Viktoria Kauichko,"
ARTUR AYVAZYAN,
aka "Arthur Ayvazyan," and
TAMARA DADYAN,

Defendants.

No. CR 20-579-SVW

[PROPOSED] ORDER CONTINUING
TRIAL DATE AND FINDINGS REGARDING
EXCLUDABLE TIME PERIODS PURSUANT
TO SPEEDY TRIAL ACT

[PROPOSED] TRIAL DATE: 05-04-21

1 Having considered the United States of America's Ex Parte
2 Application for: (1) Continuance of the Trial Date; and (2) Findings
3 of Excludable Delay Pursuant to the Speedy Trial Act, as well as the
4 Central District of California's General Orders Nos. 20-02, 20-03,
5 20-09, and 20-12, and Chief Judge Orders Nos. 20-042, 20-044, 20-
6 097, and 20-179, and good cause appearing, the Court hereby FINDS AS
7 FOLLOWS:

8 1. The Indictment in this case was filed on November 17,
9 2020. Defendants RICHARD AYVAZYAN ("R. AYVAZYAN") and MARIETTA
10 TERABELIAN first appeared before a judicial officer of the court in
11 which the charges in this case were pending on December 4, 2020.
12 The Speedy Trial Act, 18 U.S.C. §§ 3161, 3174, originally required
13 that the trial as to defendants R. AYVAZYAN and TERABELIAN commence
14 on or before June 2, 2021. Defendants ARTUR AYVAZYAN and TAMARA
15 DADYAN first appeared before a judicial officer of the court in
16 which the charges in this case were pending on November 5, 2020.
17 The Speedy Trial Act, 18 U.S.C. §§ 3161, 3174, originally required
18 that the trial as to defendants A. AYVAZYAN and DADYAN commence on
19 or before May 16, 2021.

20 2. On December 3 and 4, 2020, the Court set a trial date of
21 January 12, 2021.

22 3. Defendants R. AYVAZYAN, TERABELIAN, A. AYVAZYAN, and
23 DADYAN are all released on bond pending trial. The government
24 estimate that its case-in-chief in this matter will last
25 approximately five to seven days. All four defendants are joined
26 for trial and a severance has not been granted.

27 4. Defendants R. AYVAZYAN, TERABELIAN, A. AYVAYZAN, and
28 DADYAN are charged with violations of 18 U.S.C. § 1349 (conspiracy

1 to commit wire and bank fraud); 18 U.S.C. § 1343 (wire fraud); and
2 18 U.S.C. § 1344(2) (bank fraud). (CR 32.) Defendant R. AYVAZYAN
3 is also charged with a violation of 18 U.S.C. § 1028A(a)(1)
4 (aggravated identity theft). The government has produced discovery
5 to the defense, including approximately 3,834 pages of documents,
6 reports, and photographs, and is in the process of producing
7 additional written materials to defendants. The government has also
8 made physical evidence seized during the execution of 11 search
9 warrants on November 5, 2020, available for the defense to inspect
10 and copy, and is in the process of providing defendants with copies
11 of any accessible digital devices that were seized.

12 5. On March 13, 2020, following the President's declaration
13 of a national emergency in response to COVID-19, the Court entered a
14 General Order suspending jury selection and jury trials. C.D. Cal.
15 General Order No. 20-02, In Re: Coronavirus Public Emergency, Order
16 Concerning Jury Trials and Other Proceedings (Mar. 13, 2020). That
17 suspension remains in place until a "date to be determined." C.D.
18 Cal. General Order No. 20-09, In Re: Coronavirus Public Emergency,
19 Further Order Concerning Jury Trials and Other Proceedings (Aug. 6,
20 2020); see also C.D. Cal. Order of the Chief Judge No. 20-179, In
21 Re: Coronavirus Public Emergency, Activation of Continuity of
22 Operations Plan, at 3 (Dec. 7, 2020) ("Jury trials remain
23 suspended.").

24 6. Also on March 13, 2020, the Court imposed health- and
25 travel-related limitations on access to Court facilities. C.D. Cal.
26 General Order No. 20-03, In Re: Coronavirus Public Emergency, Order
27 Concerning Access to Court Facilities (Mar. 13, 2020). On March 19,
28 2020, by Order of the Chief Judge, the Court instituted its

Continuity of Operations Plan ("COOP"), closing all Central District of California courthouses to the public (except for hearings on criminal duty matters) and taking other emergency actions. C.D. Cal. Order of the Chief Judge No. 20-042 (Mar. 19, 2020). On March 29 and 31, recognizing COVID-19's continued spread in the community, the Court took further action: implementing video-teleconference and telephonic hearings and suspending all grand-jury proceedings. C.D. Cal. Orders of the Chief Judge Nos. 20-043 (Mar. 29, 2020) and 20-044 (Mar. 31, 2020).

7. On August 6 and September 14, 2020, the Court slightly relaxed its restrictions to permit in-person criminal hearings for defendants who do not consent to remote appearance and to allow up to 10 members of the public to attend. General Order No. 20-09, at 2-3; General Order No. 20-12, at 2 (Sept. 14, 2020). However, on December 7, 2020, following "an unprecedented surge of COVID-19 cases, hospitalizations, and test positivity rates in the Central District," the Court reinstituted its COOP Plan. Order of the Chief Judge No. 20-179, at 1-2. Pursuant to the COOP Plan, from December 9, 2020 at 5:00 p.m. through and including January 8, 2021, all grand jury proceedings are suspended and court facilities are once again closed to the public except for hearings on certain criminal duty matters. Order of the Chief Judge No. 20-179, at 2-3.

8. These orders were imposed based on (1) the California Governor's declaration of a public-health emergency in response to the spread of COVID-19, as well as (2) the Centers for Disease Control's advice regarding reducing the possibility of exposure to the virus and slowing the spread of the disease. See, e.g., General Order 20-02, at 1.

1 9. Consistent with this Court's orders, the Judicial Council
2 of the Ninth Circuit Court of Appeals declared an emergency in the
3 Central District of California, pursuant to 18 U.S.C. § 3174. In re
4 Approval of Judicial Emergency in the Central Dist. of Cal., 955
5 F.3d 1140 (9th Cir. 2020). The Judicial Council's order recognizes
6 that "under the emergency declarations of national, state, and local
7 governments, as well as recommendations from the Centers for Disease
8 Control and Prevention to convene groups of no more than 10 people,
9 the Court is unable to obtain an adequate spectrum of . . . grand
10 jurors." Id. at 1141.

11 10. Local and state governments have adopted similar policies.
12 On March 19, 2020, both Los Angeles Mayor Eric Garcetti and
13 California Governor Gavin Newsom issued emergency orders requiring
14 residents to "stay home," subject to limited exceptions. California
15 Executive Order N-33-20 (March 19, 2020); accord Safer at Home,
16 Public Order Under City of Los Angeles Emergency Authority ¶ 1
17 (March 19, 2020). Subject to similarly limited exceptions, all
18 travel was prohibited. Safer At Home ¶ 4. Non-essential businesses
19 requiring in-person attendance by workers were ordered to cease
20 operations. Id. ¶ 2. All schools in the Los Angeles Unified School
21 District remain closed to in-person classes.

22 11. On December 3, 2020, the Acting State Public Health
23 Officer of the State of California issued a Regional Stay at Home
24 Order based on the "unprecedented surge in the level of community
25 spread of COVID-19." California Regional Stay at Home Order
26 12/03/2020 (Dec. 3, 2020). That order went into effect on December
27 6, 2020 and restricts business and social activities, including by
28 suspending outdoor restaurant operations, in California regions for

1 which ICU bed capacity is less than 15%. As the Chief Judge's
2 December 7, 2020, Order reactivating the COOP Plan recognizes, ICU
3 availability in the Southern California region, which includes the
4 entire Central District of California, fell below 15% as soon as the
5 Regional Stay at Home Order went into effect. Order of the Chief
6 Judge No. 20-179, at 2.

7 12. Given the grave public-health concerns discussed in the
8 Court's General Orders and the Chief Judge's Orders, and given the
9 facts set forth in the government's Ex Parte Application (which the
10 Court incorporates fully by reference), the ends of justice served
11 by the continuance outweigh the best interest of the public and
12 defendant in a speedy trial.

13 13. Failure to grant the continuance would likely make a
14 continuation of the proceeding impossible or result in a miscarriage
15 of justice.

16 14. Failure to continue this case would also likely put
17 parties, witnesses, jurors, counsel, and court personnel at
18 unnecessary risk.

19 15. Due to the restrictions imposed by current public-health
20 concerns -- particularly given the complexity of this case -- it is
21 also unreasonable to expect adequate preparation for pretrial
22 proceedings or for the trial itself within the Speedy Trial Act time
23 limits. Thus, denial of a continuance is likely to deny all counsel
24 reasonable time necessary for effective preparation, taking into
25 account the exercise of due diligence.

26 16. The continuance is not based on congestion of the Court's
27 calendar, lack of diligent preparation on the part of the attorneys
28

1 for the government or the defense, or failure on the part of the
2 attorneys for the government to obtain available witnesses.

3 Accordingly, the Court finds that there are facts that support
4 a continuance of the trial date in this matter, and there is good
5 cause for a finding of excludable time pursuant to the Speedy Trial
6 Act, 18 U.S.C. § 3161.

7 THEREFORE, FOR GOOD CAUSE SHOWN:

8 1. The trial in this matter is continued from January 12,
9 2021, to May 4, 2021.

10 2. The time period of November 18, 2021, to May 4, 2021,
11 inclusive, is excluded in computing the time within which the trial
12 must commence, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i),
13 and (h)(7)(B)(iv).

14 3. Defendants shall appear in Courtroom 10A of the Federal
15 Courthouse, 350 West 1st Street, Los Angeles, California on May 4,
16 2021, at 9:00 a.m.

17 4. Nothing in this Order shall preclude a finding that other
18 provisions of the Speedy Trial Act dictate that additional time
19 periods are excluded from the period within which trial must
20 commence. Moreover, the same provisions and/or other provisions of
21 the Speedy Trial Act may in the future authorize the exclusion of
22 additional time periods from the period within which trial must
23 commence.

24 IT IS SO ORDERED.

25
26 _____
27 DATE

HONORABLE STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE

1 Presented by:

2 /s/

3 JULIAN L. ANDRÉ
4 Assistant United States Attorney