

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION**

UNITED STATES OF AMERICA

v.

Criminal No. 2:22-cr-00161

CALVIN BUTLER

DEFENDANT'S SECOND MOTION TO CONTINUE

Comes now the defendant, Calvin Butler, by his counsel, and hereby moves this Court for an Order continuing the trial and all related pretrial deadlines for a period of at least thirty days, and for a finding of excludable time under the Speedy Trial Act as found in Title 18 U.S.C. § 3161, *et seq.* In support of this Motion, counsel states as follows:

1. The defendant has been charged with two counts of wire fraud in connection with the submission of a fraudulent application for a Paycheck Protection Program (“PPP”) loan during the COVID-19 pandemic. Dkt. No. 5. The application resulted in the approval of a PPP loan being made to the defendant. On June 7, 2021, PPP funds in the amount of \$16,040 were electronically deposited into the defendant’s bank account with Huntington National Bank.

2. The trial of this matter is currently scheduled for January 17, 2023, before the Honorable Joseph R. Goodwin, in Charleston, West Virginia. Pretrial motions are due December 22, 2022, and a pretrial motions hearing is scheduled for January 5, 2023, at 1:30 p.m. in Charleston. Dkt. No. 27.

3. Counsel needs additional time to undertake additional investigation concerning the application for a PPP loan which was submitted under the defendant's name and incorporated his personal information. A thirty day continuance of the trial and all case-related deadlines should provide counsel with sufficient time to complete his investigation and to properly prepare for trial.

4. Counsel is also currently involved in a document intensive federal civil rights case (*United States v. Anthony DeMetro*, 2:22-cr-000184) which is scheduled to begin trial before the Honorable Irene C. Berger on Monday, January 23, 2023. Counsel anticipates that he will need the entire week of January 16, 2023, to finalize trial preparations for that case.

5. The defendant is currently on bond and his activities are being monitored by the Probation Office. The defendant agrees that his counsel needs additional time to conduct further investigation and to properly prepare his case for trial. Counsel has also spoken with AUSA M. Ryan Blackwell, who has advised that the United States does not object to the requested continuance.

The defendant certifies that the reasons for the request do not include general congestion of the Court's calendar, or lack of diligent preparation on the part of the parties involved.

WHEREFORE, defendant respectfully requests that this Honorable Court grant this Motion and enter an appropriate Order continuing the trial and all related pretrial deadlines for a period of at least thirty days.

Respectfully submitted this 21st day of December, 2022.

CALVIN BUTLER

By Counsel

**WESLEY P. PAGE
FEDERAL PUBLIC DEFENDER**

s/David R. Bungard

David R. Bungard, Bar Number: 5739

Assistant Federal Public Defender

Office of the Federal Public Defender

300 Virginia Street, East, Room 3400

Charleston, West Virginia 25301

Telephone: (304) 347-3350

Facsimile: (304) 347-3356

E-mail: david_bungard@fd.org