

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

No. 22-mj-30125

-vs-

Java Dominique Carter,

Defendant.

**GOVERNMENT’S MOTION TO ADJOURN PRELIMINARY HEARING
AND FOR DETERMINATION OF EXCLUDABLE DELAY UNDER
THE SPEEDY TRIAL ACT AND SUPPORTING BRIEF**

The United States of America, by and through its undersigned attorneys, move for an adjournment of the preliminary hearing and an ends-of-justice continuance under the Speedy Trial Act. In support, the government states as follows:

1. Defendant was arrested on the criminal complaint in this case on March 16, 2022 , and he made his initial appearance on the criminal complaint on March 16, 2022. Defendant was released on a \$10,000 unsecured bond. The preliminary hearing is currently scheduled to take place on October 4, 2022
2. The government and defendant are engaged in preindictment plea negotiations that may result in a plea agreement which will eliminate the need for

this Court to conduct a preliminary hearing. A preindictment plea agreement will also provide that defendant waive his right to be prosecuted by indictment and thus eliminate the need for the government to seek an indictment and consume grand jury resources. In addition, a preindictment plea agreement will also eliminate the need for a trial.

3. A part of the plea negotiations involves defense counsel's assessment of the government's case against defendant. This assessment requires that defense counsel have the reasonable time necessary to adequately review the discovery provided and/or about to be provided by the government to him and then confer with defendant.

4. In light of the above, the government submits that there is good cause to adjourn the preliminary hearing. Moreover, defendant has consented to this adjournment, and the adjournment sought is fairly limited. *See* Fed. R. Crim. P. 5.1(d) ("With the defendant's consent and upon a showing of good cause – taking into account the public interest in the prompt disposition of criminal cases – a magistrate judge may extend the time limits in Rule 5.1(c) one or more times.").

5. In addition, in light of the above, the government submits that the ends of justice served by a continuance of the 30-day arrest-to-indictment period under the Speedy Trial Act will outweigh the best interest of the public and the defendant in

a speedy indictment. *See* 18 U.S.C. § 3161(h)(7) (“The following periods of delay shall be excluded in computing the time within which an information or an indictment must be filed: . . . (7) 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 [indictment].”). Such a continuance would allow the parties to continue their preindictment plea negotiations without strict time constraints and pursue an expeditious and fair resolution of the government’s prosecution of defendant. It would also likely result in the conservation of judicial and prosecutorial resources by eliminating the need for a preliminary hearing and in the conservation of grand jury and prosecutorial resources by eliminating the need for defendant to be prosecuted by way of a grand jury indictment. And it would also likely result in the conservation of judicial and prosecutorial resources by eliminating the need for a trial.

6. Accordingly, the government requests that this Court find there is good cause to adjourn the preliminary hearing in this case and order that the preliminary hearing be adjourned until December 5, 2022. The government also requests that

this Court find, based on the information and explanation set forth above, that the ends of justice served by a continuance of the 30-day Speedy Trial Act arrest-to-indictment period will outweigh the best interest of the public and the defendant in a speedy indictment. The government requests that this ends-of-justice continuance begin on the date of this motion and continue through December 5, 2022 and that that period be deemed excludable delay pursuant to 18 U.S.C. § 3161(h)(7).

7. Defense counsel, Vincent Haisha, has reviewed this motion and does not oppose it.

Respectfully submitted,

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Dated: October 4, 2022

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ORDER

This matter coming before the Court on the Government's Motion to Adjourn Preliminary Hearing and for Determination of Excludable Delay under the Speedy Trial Act, and defense counsel having indicated that he does not oppose the motion, for the reasons stated in the government's motion, the motion is granted.

The Court finds, based on the information and explanation set forth in the government's motion, that there is good cause to adjourn the preliminary hearing in this case and orders that it be adjourned to December 5, 2022. *See* Fed.R. Crim. P. 5.1(d).

In addition, for the reasons stated in the government's motion, the Court finds, based on the information and explanation set forth in the government's motion, that the ends of justice served by a continuance of the 30-day Speedy Trial

Act arrest-to-indictment period will outweigh the best interest of the public and the defendant in a speedy indictment. *See* 18 U.S.C. § 3161(h)(7). Accordingly, the Court grants a continuance until December 5, 2022, and orders that the period from October 4, 2022 to December 5, 2022 be deemed excludable delay pursuant to 18 U.S.C. § 3161(h)(7).

s/JONATHAN J.C. GREY
Jonathan J.C. Grey
United States Magistrate Judge

Dated: October 5, 2022