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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 v.

21 CR 729 (LAK)

6 CHANETTE LEWIS, ET AL.,

7 Defendants.

8 -----x

New York, N.Y.

May 17, 2022

2:46 p.m.

9 Before:

10 HON. LEWIS A. KAPLAN,

District Judge

11 APPEARANCES

12 DAMIAN WILLIAMS,

13 United States Attorney for the
14 Southern District of New York

BY: MICHAEL D. NEFF

Assistant United States Attorney

16 DAVID PATTON

FEDERAL DEFENDERS OF NEW YORK

17 Attorney for Defendant Lewis

BY: MARK B. GOMBINER

19 THE LAW OFFICE OF THOMAS A. FARINELLA

Attorneys for Defendant Benjamin

20 BY: THOMAS A. FARINELLA

21 KIRTON LAW FIRM

22 Attorneys for Defendant West

BY: MARLON KIRTON

24 LAW OFFICES OF EZRA SPILKE, PLLC

Attorneys for Defendant Daniel

25 BY: EZRA SPILKE

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(In open court)

(Case called)

MR. NEFF: Good afternoon, your Honor. Michael Neff for the government.

THE COURT: Afternoon.

THE DEPUTY CLERK: For defendant Chanette Lewis, are you ready?

MR. GOMBINER: Yes. Mark Gombiner, Federal Defenders. Your Honor, Ms. Lewis is not here because her daughter --

THE COURT: I can't hear you.

MR. GOMBINER: Sorry, Judge. Ms. Lewis is not here because her daughter, who is two years old, has had a medical emergency. I can give the Court a lot of details about this, but right now she's at Downstate Pediatrics Associates, where she's being evaluated for a number of seizures she had recently. She was in the hospital this weekend; so that's why she's not here.

THE COURT: Understood.

THE DEPUTY CLERK: Defendant Tatiana Benjamin, are you ready?

MR. FARINELLA: Yes, your Honor. Tom Farinella for Ms. Benjamin, your Honor.

THE DEPUTY CLERK: Defendant Tatiana Daniel, are you ready?

MR. SPILKE: Yes, your Honor. Ezra Spilke for Tatiana

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1 Daniel, who is present in the courtroom.

2 THE COURT: Good afternoon.

3 THE DEPUTY CLERK: Defendant Heaven West, are you
4 ready?

5 MR. KIRTON: Good afternoon. Marlon Kirton for
6 Ms. West. She's behind me. Good afternoon.

7 THE COURT: Good afternoon.

8 Okay. Mr. Neff, I guess it's time to set a trial
9 date.

10 MR. NEFF: That's correct, your Honor. The parties
11 have begun -- just before this conference, started discussing
12 respective schedules subject, of course, to Court preferences
13 and availability.

14 One potential window that the parties have identified,
15 though certainly not the only one, would be in or around late
16 January. I should also note that, related to this
17 conversation, is that the parties' negotiations about potential
18 pretrial dispositions are ongoing and, in certain instances,
19 have intensified of late.

20 THE COURT: How long a trial do you anticipate?

21 MR. NEFF: Assuming a four-defendant trial, your
22 Honor, we would conservatively estimate approximately two
23 weeks.

24 THE COURT: And for the sake of argument, if it were
25 two defendants?

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1 MR. NEFF: It would be shorter, Judge. The precise
2 duration, I think, does depend a little bit on questions of
3 stipulations and things of that sort. I don't think it would
4 necessarily be shorter by half, though.

5 THE COURT: Okay. Folks, what about January 3rd?

6 MR. NEFF: That works for the government, your Honor.

7 MR. SPILKE: Your Honor, I have travel in that week.
8 I will say that --

9 THE COURT: Think of it as protecting you from Covid.

10 MR. SPILKE: Thank you, Judge. I think my wife would
11 be -- I think she wouldn't be too thrilled with the fact that I
12 think she's booked the tickets already, but I will say that I
13 think that we're very close to a resolution. I don't want to
14 hold up any other dates for anyone, but if I could have that
15 date with the proviso that within, I don't know, four weeks I
16 can say that it looks like we are actually going to go to trial
17 and need a new trial date but --

18 THE COURT: What about everybody else?

19 MR. GOMBINER: Well, Judge, I do think that
20 January 3rd would kind of cast a fall over the holiday season.
21 Maybe it could be like --

22 THE COURT: Am I going to have to get you another
23 birthday cake? I mean, these things seem to come up in your
24 trial scheduling.

25 MR. GOMBINER: Well, they do come up, Judge, but I'm

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1 just expressing my -- the Court asked for our sentiments. I
2 mean, my sentiment is negative but, you know, I mean, we're
3 subject to the Court's schedule.

4 MR. SPILKE: There was another window, Judge, that was
5 in November that I think worked for most people, and I think I
6 heard Andy say that the fall is pretty open?

7 MR. NEFF: I am highly replaceable. I do have an
8 October 30th or 31st trial that's a two-week trial, roughly,
9 before Judge Failla.

10 THE COURT: How can we possibly regard you as
11 replaceable, Mr. Neff?

12 MR. NEFF: All AUSAs are, your Honor.

13 THE COURT: That's never true, but that said, well,
14 the only thing about November, November is pretty open, but
15 there's Thanksgiving in the middle of it.

16 MR. KIRTON: Your Honor, just in terms of scheduling,
17 I have a preference for 2023. I have another matter that's
18 going to be tried in fall of this year. We should have that
19 date sometime this week. I have a trial in June. I have a
20 trial in the fall of this year.

21 THE COURT: But fall of this year, this other trial
22 you're talking about, nobody has set a date yet, right?

23 MR. KIRTON: Technically, no, but I know it will be
24 set sometime this week. So I'm otherwise available in 2023,
25 but I just wanted to put that on the record.

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1 THE COURT: I appreciate that.

2 Mr. Spilke, when does your wife get back from her
3 vacation?

4 MR. SPILKE: Well, Judge, the 9th.

5 THE COURT: She gets back on the 9th?

6 MR. SPILKE: Yes, which is a Monday.

7 THE COURT: All right. January 17th.

8 MR. SPILKE: Thank you, Judge.

9 THE COURT: Now, I'll tell you that, at the moment, I
10 have another trial scheduled for that period, but you're the
11 No. 1 backup, and my best guess is I will be available on
12 January 17th, but one never knows for sure.

13 Okay. Anything else?

14 MR. NEFF: The government seeks to exclude time
15 between today and the trial date of January 17th, 2023, for the
16 continued review of documents and discovery, continued plea
17 negotiations and preparation for trial.

18 THE COURT: Any objection?

19 MR. GOMBINER: No, your Honor.

20 MR. SPILKE: No, your Honor.

21 MR. KIRTON: No, objection.

22 MR. FARINELLA: No, your Honor.

23 THE COURT: All right. Time is excluded through
24 January 17th. I find that the interests of justice served
25 thereby outweigh the interests of the public and the defendants

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1 in a speedy trial for the reasons stated by Mr. Neff.

2 Thank you, folks.

3 MR. SPILKE: Thank you, Judge.

4 MR. NEFF: Thank you, Judge.

5 (Adjourned)