

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

DANIEL ERIC JAY.

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Case No. 1:20-CR-228-MHC-JKL

**MOTION TO CONTINUE PRETRIAL CONFERENCE AND REQUEST
FOR ADDITIONAL TIME TO FILE PRETRIAL MOTIONS**

COMES NOW the Defendant, DANIEL ERIC JAY, and moves this Honorable Court to continue his pretrial conference, scheduled for July 26, 2021, at 9:30am, and grant him forty-five (45) additional days to file pretrial motions. In support of this request, the Defendant shows as follows:

1.

Mr. Jay is charged in the above-styled second superseding indictment with conspiracy to commit wire fraud in violation of Title 18 USC Section 1343 (Count One), as well as substantive wire fraud counts in violation of Title 18 USC Sections 1343 and 2 (Counts Two-Four), and one count of bank fraud in violation of Title 18 USC Sections 1344 and 2 (Count Five). The indictment also contains a forfeiture provision. Mr. Jay has entered a plea of “Not Guilty” to all charges.

2.

Previously, Mr. Jay was representing himself. On June 21, 2021, at a pretrial conference, Mr. Jay advised the Court that he was willing to accept representation by counsel, and the Court appointed the undersigned to represent the Defendant. (Doc. 201). New counsel next requested 30 days to file pretrial motions. The government opposed this motion, and indicated that it believed there were no viable motions to be filed, as there were no searches or seizures conducted with respect to Mr. Jay. Over the government's objection, the Court granted new counsel 30 days to file motions. (Doc. 201).

3.

Since the June 21, 2021, pretrial conference, counsel for the government discovered that search warrants were executed on Mr. Jay's Google accounts. The government subsequently produced the search warrant affidavits. Last week, on or about July 15, 2021, the government disclosed additional discovery (reports) to Mr. Jay's counsel. This production prompted undersigned counsel to request a full copy¹ of the all Rule 16 Discovery materials. On July 16, 2021, undersigned

¹Prior counsel indicated that he no longer possessed Mr. Jay's Rule 16 discovery. Admittedly, the government provided Mr. Jay with a copy (on a hard drive he supplied), however this copy purportedly is impossible to navigate and hard to open.

Experience and caution teach that the best practice at this juncture is to provide a complete "clean" copy of the Rule 16 materials directly to new counsel.

counsel delivered a 2-terabyte hard drive to the United States Attorney's Office, for the government to use in providing new counsel with a full copy of the discovery materials.

4.

New counsel requires additional time to obtain and review the discovery and evaluate the evidence against his client. Only then can he effectively prepare pretrial motions in this case, or strategically decide not to file motions.

5.

Additionally, the parties are pursuing plea negotiations, however the undersigned counsel needs additional time (and discovery) before he can effectively advise his client on whether or not to accept the government's plea offer.

6.

The Defendant recognizes and *agrees* that the continuance requested pursuant to this request serves the best ends of Justice, is in the interest of the Defendants and the public and is excluded under the Speedy Trial Act, Title 18 U.S.C. § 3161(h). The Defendant respectfully requests 45 additional days, as opposed to 30, because undersigned counsel will be out of the district on leave for 2 weeks beginning July 28, 2021.

WHEREBY, DANIEL ERIC JAY requests that his pretrial conference be continued and that he be given additional time (45 days) to file his pretrial motions in this case and that his pretrial conference be continued to date convenient to the Court and all the parties.

Dated: This 20th day of July, 2021.

Respectfully submitted,

s/ L. Burton Finlayson

L. BURTON FINLAYSON
Attorney For DANIEL ERIC JAY
Georgia Bar Number: 261460

LAW OFFICE OF
L. BURTON FINLAYSON, LLC
931 Ponce de Leon Avenue, NE
Atlanta, Georgia 30306
(404) 872-0560
lbfcourts@aol.com

CERTIFICATE OF SERVICE

This is to certify that I have this day electronically served the foregoing Motion to Continue Pretrial Conference and Motions Date by filing said in CM/ECF with automatic electronic service upon all parties including the following:

Russell Phillips
ASSISTANT UNITED STATES ATTORNEY
600 U.S. Courthouse
75 Ted Turner Drive, SW
Atlanta, Georgia 30303

This 20th day of July, 2021.

s/ L. Burton Finlayson
L. BURTON FINLAYSON
Attorney For DANIEL ERIC JAY