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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

HASSAN KANYIKE,

Defendant.

No. 20-mj-05936

STIPULATION REGARDING REQUEST FOR
(1) CONTINUANCE OF DATE BY WHICH
AN INDICTMENT OR INFORMATION MUST
BE FILED, (2) FINDINGS OF
EXCLUDABLE TIME PURSUANT TO THE
SPEEDY TRIAL ACT, AND (3)
CONTINUANCE OF POST-INDICTMENT
ARRAIGNMENT

Plaintiff United States of America, by and through its counsel of record, the United States Attorney for the Central District of California and Assistant United States Attorney Richard E. Robinson, and defendant HASSAN KANYIKE ("defendant"), both individually and by and through his counsel of record, Victor Sherman, hereby jointly stipulate and move as follows:

1. On December 8, 2020, defendant was arrested on a complaint issued by Magistrate Judge Charles F. Eick for violation of 18 U.S.C. §§ 1344 (2) (bank fraud). The complaint was supported by an agent's 26-page affidavit describing defendant's alleged bank fraud scheme. (ECF 1.)

1 2. On December 9, 2020, defendant was presented and arraigned
2 on the complaint. Preliminary Hearing was set for December 23,
3 2020. Post-Indictment Arraignment was set for December 29, 2020, at
4 11:30 a.m. (ECF 6.)

5 3. On December 18, 2020, defendant and his counsel signed and
6 filed a Waiver of Preliminary Hearing. (ECF 16.)

7 4. The Speedy Trial Act, 18 U.S.C. § 3161(b), originally
8 required that an information or indictment charging defendant be
9 filed on or before January 7, 2021.

10 5. By this stipulation, the parties jointly request that the
11 Court continue the date by which an information or indictment must
12 be filed to January 29, 2021.

13 6. The parties further jointly request that the Court
14 continue defendant's Post-Indictment Arraignment from December 29,
15 2020, to February 2, 2021, at 11:30 a.m.

16 7. The parties agree and stipulate, and request that the
17 Court find, that the ends of justice outweigh the interest of the
18 public and defendant in the filing of an information or indictment
19 within the original date prescribed by the Speedy Trial Act because:

20 a. The arrest of defendant, on December 8, 2020,
21 occurred at a time such that it is unreasonable to expect return and
22 filing of an indictment within the period specified in Section
23 3161(b).

24 b. The facts upon which the grand jury must base its
25 determination are complex and, thus, it would be unreasonable to
26 expect return and filing of an indictment within the period
27 specified in Section 3161(b). That is particularly true given the
28 limited time a grand jury would have to consider the facts because

1 of the restrictions on grand juries imposed by the COVID-19
2 pandemic:

3 i. On March 31, 2020, in response to the continuing
4 spread of the COVID-19 pandemic, this Court suspended all regularly
5 scheduled grand-jury proceedings until at least May 4, 2020,
6 "pending further order of the Court." C.D. Cal. Order of the Chief
7 Judge No. 20-044, In Re: Coronavirus Public Emergency, Suspension of
8 Grand Juries, at 3 ¶ 1 (Mar. 31, 2020). By subsequent order, the
9 Court continued this suspension through June 1, 2020, unless
10 otherwise ordered by the Court. C.D. Cal. General Order No. 20-05,
11 In Re: Coronavirus Public Emergency, Further Order Concerning Jury
12 Trials and Other Proceedings, at 3 ¶ 7 (Apr. 13, 2020). On May 28,
13 2020, the Court ordered that in-person sessions of the grand jury
14 could continue at the discretion of the Chief Judge. C.D. Cal.
15 Amended General Order No. 20-08, In Re: Coronavirus Public Emergency
16 Order Concerning Phased Reopening of the Court, at 3 ¶ 8 (May 28,
17 2020). No grand jury in this district met from March 26, 2020,
18 until June 5, 2020.

19 ii. Consistent with this Court's order, the Judicial
20 Council of the Ninth Circuit declared an emergency in the Central
21 District of California, pursuant to 18 U.S.C. § 3174. In re
22 Approval of the Judicial Emergency Declared in the Central District
23 of California (9th Cir. Judicial Council Apr. 9, 2020), 955 F.3d
24 1140 (9th Cir. 2020). The Judicial Council's order recognizes that
25 "under the emergency declarations of national, state, and local
26 governments, as well as recommendations from the Centers for Disease
27 Control and Prevention to convene groups of no more than 10 people,
28

1 the Court is unable to obtain an adequate spectrum of . . . grand
2 jurors." Id. at 1141.

3 iii. On December 7, 2020, following "an unprecedented
4 surge of COVID-19 cases, hospitalizations, and test positivity rates
5 in the Central District," and a regional stay-at-home order issued
6 by the State on December 6, 2020, the Court activated its Continuity
7 of Operations ("COOP") Plan. Order of the Chief Judge No. 20-179,
8 at 1-2. Pursuant to the COOP Plan, from December 9, 2020 at 5:00
9 p.m. through and including January 8, 2021, "All regularly scheduled
10 grand jury proceedings are suspended and grand jurors will not
11 otherwise be required to report for service or to call in to the
12 United States Attorney's Office for reporting purposes during the
13 period for which grand jury proceedings are suspended." Order of
14 the Chief Judge No. 20-179, at 2-3.

15 iv. On December 3, 2020, the Acting State Public
16 Health Officer of the State of California issued a Regional Stay at
17 Home Order based on the "unprecedented surge in the level of
18 community spread of COVID-19." California Regional Stay at Home
19 Order 12/03/2020 (Dec. 3, 2020). That order went into effect on
20 December 6, 2020, and restricts business and social activities,
21 including by suspending outdoor restaurant operations, in California
22 regions for which ICU bed capacity is less than 15%. As the Chief
23 Judge's December 7, 2020 Order recognizes, the Regional Stay at Home
24 Order went into effect because ICU availability in the Southern
25 California region, which includes the entire Central District of
26 California, fell below 15%. Order of the Chief Judge No. 20-179, at
27 2.

1 v. The last grand jury session in the Central
2 District of California was on December 9, 2020, one day after
3 defendant's arrest on the complaint. The next available grand jury
4 session, consistent with Order No. 20-179, will be no sooner than
5 January 11, 2021.

6 8. Based on the foregoing, the parties request that the Court
7 find that for the purpose of computing time under the Speedy Trial
8 Act, 18 U.S.C. § 3161(b), within which an information or indictment
9 must be filed, the time period of from December 9, 2020, through
10 January 10, 2021, is deemed excludable pursuant to 18 U.S.C.
11 § 3161(h)(7)(A), because the ends of justice served by granting a
12 continuance outweigh the best interest of the public and the
13 defendant in a filing of an information or indictment within the
14 period specified in Section 3161(b).

15 9. The parties agree and stipulate, and request that the
16 Court find, that nothing in this stipulation and accompanying order
17 shall preclude a finding that other provisions of the Speedy Trial
18 Act dictate that additional time periods are excludable from the

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20 ///

21 ///

1 period within which an information or indictment must be filed.

2 IT IS SO STIPULATED

3 Dated: December 24, 2020

Respectfully submitted,

4 NICOLA T. HANNA
United States Attorney

5 BRANDON D. FOX
6 Assistant United States Attorney
Chief, Criminal Division

7
8 /s/

9 RICHARD E. ROBINSON
Assistant United States Attorney

10 Attorneys for Plaintiff
UNITED STATES OF AMERICA

11
12 Dated: December 24, 2020

/s/ (per email authorization)

13 VICTOR SHERMAN

14 Attorney for Defendant
HASSAN KANYIKE

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16
17 DECLARATION OF VICTOR SHERMAN

18 I am defendant Hassan Kanyike's attorney. I have carefully
19 discussed every part of this stipulation with my client, including
20 the requested extension for filing an information or indictment to
21 January 29, 2021, and continuance of the Post-Indictment Arraignment
22 to February 2, 2021, at 11:30 a.m. I have fully informed my client
23 of his Speedy Trial rights. To my knowledge, my client understands
24 those rights and agrees to waive them. I believe that my client's
25 decision to give up the right to have an information or indictment
26 filed on or before January 7, 2021, and continue such deadline to
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28 January 29, 2021, is an informed and voluntary one.

Dated: December 24, 2020

/s/ (per email authorization)
VICTOR SHERMAN

Attorney for Defendant
HASSAN KANYIKE