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UNITED STATES OF AMERICA
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10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ANDREW MARNELL,

16 Defendant.
17

No. 2:20-CR-319-RGK

STIPULATION REGARDING REQUEST FOR
(1) CONTINUANCE OF TRIAL DATE AND
(2) FINDINGS OF EXCLUDABLE TIME
PERIODS PURSUANT TO SPEEDY TRIAL
ACT

CURRENT TRIAL DATE: 08/24/2021
PROPOSED TRIAL DATE: 09/21/2021

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19 Plaintiff United States of America, by and through its counsel
20 of record, the Acting United States Attorney for the Central District
21 of California and Assistant United States Attorney Kerry L. Quinn,
22 and defendant ANDREW MARNELL ("defendant"), both individually and by
23 and through his counsel of record, Deputy Federal Public Defender
24 Neha Christerna, hereby stipulate as follows:

25 1. The Indictment in this case was filed on July 28, 2020.
26 Defendant first appeared before a judicial officer of the court in
27 which the charges in this case were pending on July 16, 2020. The
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1 Speedy Trial Act, 18 U.S.C. § 3161, originally required that the
2 trial commence on or before October 6, 2020.

3 2. On August 6, 2020, the Court set a trial date of September
4 29, 2020. The Court has previously continued the trial date in this
5 case from September 29, 2020 to August 24, 2021, and found the
6 interim period to be excluded in computing the time within which the
7 trial must commence, pursuant to the Speedy Trial Act.

8 3. Defendant is detained pending trial. The parties estimate
9 that the trial in this matter will last approximately three to four
10 days.

11 4. By this stipulation, defendant moves to continue the trial
12 date to September 21, 2021.

13 5. Defendant requests the continuance based upon the following
14 facts, which the parties believe demonstrate good cause to support
15 the appropriate findings under the Speedy Trial Act:

16 a. Defendant is charged with violations of 18 U.S.C.
17 § 1344(2) (bank fraud). The government has produced discovery to the
18 defense, including nearly 7,000 pages of documents, which includes a
19 large volume of digital files. The discovery in the case includes,
20 among other documents and records: agent reports, bank records
21 including loan applications and supporting documents, criminal
22 history reports, search warrant documents, and documents and records
23 from the Small Business Administration (SBA), the Treasury Inspector
24 General for Tax Administration (TIGTA), credit rating agencies,
25 casinos, state taxing authorities, secretaries of state, and internet
26 service providers (ISPs). The government will produce additional
27 discovery as necessary in accordance with its discovery obligations.
28 Among other documents and records that the government anticipates

1 producing are copies of approximately 20 digital devices that were
2 seized from defendant's residence on July 16, 2020, in connection
3 with the execution of a search warrant at the residence that day.
4 The data from the digital devices is voluminous (agents currently
5 estimate that the total volume of data on these devices exceeds 1
6 TB). Some of the data is password protected, which has complicated
7 the imaging process, and the number and variety of devices that were
8 seized, and the different types of data on those devices, has also
9 extended the time necessary to process the data. The government is
10 also using a filter team to review data from at least some of the
11 devices, which requires additional time to complete production of
12 discovery to defense. The discovery in this case also includes a
13 large amount of personal and confidential information and sensitive
14 business information of third parties. The redaction of all
15 confidential information in the discovery would be prohibitively time
16 consuming and might prevent defense counsel from obtaining a
17 realistic view of these materials. To address this issue, on August
18 6, 2020, the parties entered into a stipulation to govern discovery
19 in this matter, agreeing to restrict the use and dissemination of
20 confidential information, and requesting entry of a protective order.
21 On August 7, 2020, the Court entered the requested protective order
22 (docket no. 25). As a result of restrictions in the protective
23 order, including restrictions on defendant's access to confidential
24 information, defense counsel has needed to review discovery with
25 defendant personally, increasing the amount of time necessary to
26 conduct an independent investigation of the case.

1 6. Defense counsel has other active matters preventing full
2 preparation of this matter on the current schedule, including the
3 following:

4 a. United States v. Hayes, Case No. CR 19-370-PSG, a drug
5 distribution case, scheduled to begin trial on August 26, 2021, where
6 trial is estimated to last 2-3 days;

7 b. United States v. Bando, Case No. CR 20-425-ODW, a bank
8 fraud case, scheduled to begin trial on September 28, 2021, where
9 trial is estimated to last 2-3 days;

10 c. United States v. Lyons, Case No. CR 20-596-FMO, an
11 identity theft case, scheduled to begin trial on October 5, 2021,
12 where trial is estimated to last 2-3 days;

13 d. United States v. Hutchins, Case No. CR 21-204-SB (a
14 felon in possession of a firearm case, scheduled to begin trial on
15 October 14, 2021, scheduled to begin trial on October 14, 2021, where
16 trial is estimated to last three days.

17 e. United States v. Verdugo, Case No. 21-245-SB, a drug
18 distribution case, scheduled to begin trial on October 26, 2021,
19 where trial is estimated to last 4 days;

20 f. United States v. Xing, Case No. CR 20-228-ODW, a sex
21 trafficking case, scheduled to begin trial on October 14, 2021, where
22 trial is estimated to last 7-10 days.

23 7. Defendant also requests the continuance based upon the
24 following facts related to the COVID-19 pandemic, which the parties
25 also believe demonstrate good cause to support the appropriate
26 findings under the Speedy Trial Act:

27 a. In March 2020, the Central District of California
28 suspended jury trials and adopted many other restrictions to reduce

1 exposure to the COVID-19 virus and slow its spread. The measures
2 were necessary to protect health and safety.

3 b. Jury trials have resumed. See C.D. Cal. General Order
4 No. 21-07, at 3 ¶ 3 (Apr. 15, 2021). However, there is a substantial
5 backlog of cases that were continued to protect the public.
6 Moreover, the Central District has designed COVID-related jury trial
7 protocols "to protect the health and safety of all trial
8 participants," and those protocols limit the number of jury trials
9 that can be conducted simultaneously. General Order 21-07, at 2-3
10 ¶ 4.

11 c. Based on continued public health concerns and the
12 adoption of safety protocols limiting the number of jury trials in
13 order to maintain social distancing and protect all trial
14 participants, a continuance of the trial date in this matter will
15 serve the ends of justice and outweigh the interests of the public
16 and defendant in a speedy trial. The parties stipulate to that fact,
17 and it is consistent with the Central District's finding. General
18 Order 21-07, at 3 ¶ 4. The parties further stipulate that under the
19 extraordinary circumstances of the COVID-19 pandemic, the requested
20 continuance is not based on general congestion of the Court's
21 calendar, lack of diligent preparation by counsel, or any failure on
22 the part of the government to obtain available witnesses. The
23 government does not object to the request for a continuance.

24 d. Failure to grant the requested continuance would
25 likely make a continuation of the proceeding impossible or result in
26 a miscarriage of justice, particularly given the need for a complete
27 and continuously serving jury, which is central to the sound
28 administration of justice. Failure to grant a continuance would also

1 likely put parties, witnesses, jurors, venirepersons, counsel, and
2 Court personnel at risk. The government does not object to the
3 request for a continuance.

4 8. For purposes of computing the date under the Speedy Trial
5 Act by which defendant's trial must commence, the parties agree that
6 the time period of August 24, 2021, to September 21, 2021, inclusive,
7 should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A),
8 (h)(7)(B)(i), and (h)(7)(B)(iv), because the delay results from a
9 continuance granted by the Court at defendant's request, without
10 government objection, on the basis of the Court's finding that:
11 (i) the ends of justice served by the continuance outweigh the best
12 interest of the public and defendant in a speedy trial; (ii) failure
13 to grant the continuance would be likely to make a continuation of
14 the proceeding impossible, or result in a miscarriage of justice; and
15 (iii) failure to grant the continuance would unreasonably deny
16 defendant continuity of counsel and would deny defense counsel the
17 reasonable time necessary for effective preparation, taking into
18 account the exercise of due diligence.

19 9. Nothing in this stipulation shall preclude a finding that
20 other provisions of the Speedy Trial Act dictate that additional time
21 periods be excluded from the period within which trial must commence.
22 Moreover, the same provisions and/or other provisions of the Speedy

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1 Trial Act may in the future authorize the exclusion of additional
2 time periods from the period within which trial must commence.

3 IT IS SO STIPULATED.

4 Respectfully submitted,

5 Dated: August 6, 2021

TRACY L. WILKISON
Acting United States Attorney

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7 SCOTT M. GARRINGER
Assistant United States Attorney
Chief, Criminal Division

8
9 /s/

10 KERRY L. QUINN
Assistant United States Attorney

11 Attorneys for Plaintiff
12 UNITED STATES OF AMERICA

13
14 Dated: August 6, 2021

/s/ by email permission

15 NEHA CHRISTERNA*
16 Deputy Federal Public Defender

17 Attorney for Defendant
ANDREW MARNELL

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* Counsel for defendant is signing on behalf of her client.
Counsel will obtain the defendant's signature as soon as possible and
file with the Court.