

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-60173-CR-WILLIAMS

UNITED STATES OF AMERICA

Plaintiff,

V.

**CAROLYN DENISE WADE and
TRACY D. WADE,**

Defendant,

UNOPPOSED MOTION TO CONTINUE TRIAL

Defendants, Carolyn Wade and Tracy Wade, through counsel, move to continue the trial of this matter that is currently scheduled to commence on October 7, 2024 for a period of forty-five (45) days. In support thereof, Ms. Wade and Mr. Wade state:

1. On July 27, 2023, the government filed a superseding indictment charging Ms. Wade and Mr. Wade with several offenses related to fraudulently acquiring Paycheck Protection Program (PPP) loans from the Small Business Administration (SBA). Count 1 charges Ms. Wade and Mr. Wade with conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349. Count 2 charges Mr. Wade singularly with a substantive count wire fraud, in violation of 18 U.S.C. § 1343. Count 3 charges Ms. Wade and Mr. Wade with a substantive count of wire fraud, in violation of 18 U.S.C. § 1343. Count 4 charges Ms. Wade and Mr. Wade with conspiring to make false statements to the SBA, in violation of 15 U.S.C. § 645(a) and 18 U.S.C. § 371. Count 5 charges Ms. Wade singularly with making a false statement to the SBA, in violation of 15 U.S.C. § 645(a). Counts 6, 7 and 10 charge Mr. Wade singularly with making false statements to the

SBA, in violation of 15 U.S.C. § 645(a), Counts 8 and 9 charge Ms. Wade singularly with making false statements to the SBA, in violation of 15 U.S.C. § 645(a).

2. With respect to Ms. Wade, this cause is a retrial after a mistrial was declared due to a hung jury on May 22, 2024. (DE 72).

3. In the first trial, Mrs. Wade was the sole defendant and was charged with one count of wire fraud in connection with a PPP loan application, in violation of 18 U.S.C. Section 1343.

4. On July 15, 2024, Ms. Wade and Mr. Wade were arraigned on the instant superseding indictment (DE 100).

5. The trial of this matter is scheduled to commence on October 7, 2024.

6. The defense team needs additional time to review the discovery with Ms. Wade and Mr. Wade. The defense needs additional time to investigate evidence favorable to the defense. The defense needs additional time to effectively prepare the cross examination and direct examination of witnesses.

7. The government has added Mr. Wade as a defendant and has charged Mr. Wade with offenses distinct from the one count that resulted in a mistrial for Ms. Wade. Accordingly, Mr. Wade's charges effectively amount to a separate case.

8. Additionally, during the first trial, it was disclosed that another individual was involved in the preparation of Ms. Wade's PPP loan application. That individual, Haydee Rivero, fka Haydee Granados, is named as a co-conspirator in count 1 of the instant superseding indictment. It was/is the theory of defense that Haydee Rivero fka

Haydee Granados prepared Ms. Wade's PPP loan application and included false information without Ms. Wade's knowledge.

9. As part of their discovery submission, the government disclosed to the defense 21 files that they retrieved pursuant to a subpoena issued to Womply, a technology company for the Paycheck Protection Program. Haydee Rivero fka Haydee Granados was involved with the preparation of the PPP loans associated with these files. One of the files is labeled Haydee Granados and another file is labeled Tracy Wade. The remaining 19 files are labeled with names that are unknown to the defense team. The defense team needs additional time to investigate or interview the individuals whose names appear on those 19 files. Those individuals are listed numbered 18 through 35 of Defendant's Witness List. (Attached Document 151)

10. On August 21, 2024, the defense team filed a request that the government provide specific *Brady* information. Among the information requested was any PPP loan application associated with IP address 76.110.183.125 (Haydee Granados's IP address) and the names and addresses of people for whom Haydee Granados prepared PPP loan applications. The government has taken the position that the requested information is not required to be disclosed under *Brady*.

11. Finally, a member of the defense team, Daryl E. Wilcox, is still recovering from a recent bout of bacterial pneumonia. Mr. Wilcox advises he is still not quite at 100% and was recently diagnosed with anemia which causes frequent fatigue.

12. The defense team has conferred with Assistant United States Attorneys

David Snider and Adam Love, and the government is not opposed to a thirty (30)-day continuance albeit for reasons different from those articulated herein. This motion is made for good cause, is based on the facts, and is not interposed to cause unreasonable delay or to burden or frustrate the court. The defendants are facing over 40 years possible jail time and a brief delay to properly prepare, to get it right, and the justice of the case, far outweigh the need to get to trial quickly in rigid compliance with schedule.

13. The court has discretion to grant a continuance for good cause shown and in exercising such discretion, should consider such factors as exist in this case, that the ends of justice is served by granting a continuance outweigh the best interest of the public and the defendants in a speedy trial.

14. Failure to grant a continuance in this case would likely result in a miscarriage of justice. This case so complex and involves novel questions of fact and law, involving no less than co-defendant spouses, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limit established by the Speedy Trial Act, Title 18 U.S.C. sec. 3161(h)(8); accordingly, the defense requires additional time to effectively prepare taking into account the exercise of due diligence. *Zedner v. United States*, 547 U.S. 489 (2006).

WHEREFORE for the foregoing facts, reasons and arguments, and any argument to be adduced at a hearing on this motion, as well as to this court appear equitable just and proper, this court should, respectfully, continue the trial in this matter as requested.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was electronically filed with the Clerk of Court via CM/ECF. I also certify that the foregoing pleading was served electronically on this date on all counsel of record via Notice of Electronic Filing generated by CM/ECF on September 19, 2024.

Respectfully Submitted,

/s/ Johnny L. McCray, Jr.

Johnny L. McCray, Jr.

Florida Bar No. 342319

Law Office of Johnny L. McCray, Jr., P.A.

400 East Atlantic Boulevard

Pompano Beach, Florida 33060

Tel: (954) 781-3662 * Fax: (754) 307-2857

mccraylaw@gmail.com

/s/ Daryl E. Wilcox

Daryl E. Wilcox

Florida Bar No. 838845

5201 S.W. 18th Street

Plantation, Florida 33317

Tel: (954) 303-1457

darylewilcox06@gmail.com

Attorneys for Defendant