

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALETA NECOLE THOMAS, PEPPER
JONES, and KATRINA WEST,
Defendants.

Case No. 21-CR-239-GKF

ORDER

Before the court is the Government and defendants Aleta Necole Thomas, Pepper Jones, and Katrina West's Joint Motion to Continue Deadlines and New Scheduling Order [Doc. 40]. For the reasons set forth below, the motion is granted.

On May 20, 2021, a grand jury returned an indictment charging defendant Aleta Nicole Thomas with five counts of False Statement to a Financial Institution, in violation of 18 U.S.C. § 1014, along with a Forfeiture Allegation, pursuant to 18 U.S.C. § 982(a)(2). [Doc. 2]. On July 20, 2021, the grand jury returned a superseding indictment charging Jones and West, along with Thomas. [Doc. 17]. Thomas was charged with an additional eight counts of False Statement to a Financial Institution, in violation of 18 U.S.C. § 1014, and two counts of Aggravated Identity Theft, pursuant to 18 U.S.C. § 1028A(a)(1). Jones was charged jointly with Thomas in two of the counts of False Statement to a Financial Institution, in violation of 18 U.S.C. § 1014. West was charged in two separate counts of False Statement to a Financial Institution, in violation of 18 U.S.C. § 1014. The superseding indictment also included Forfeiture allegations as to all defendants, pursuant to 18 U.S.C. §§ 982(a)(2), 1028(b)(5).

The court entered a Scheduling Order [Doc. 12], which was most recently amended by Order on July 28, 2021 [Doc. 38], after the issuance of the superseding indictment. The Amended Scheduling Order [Doc. 38] set the following deadlines:

Motions Due	August 11, 2021
Responses Due	August 25, 2021
PT/CP/Motions Hearing	September 8, 2021 at 9:30 a.m.
Voir Dire, Jury Instructions, and Trial Briefs Due	September 13, 2021
Jury Trial	September 20, 2021 at 9:30 a.m.

In their joint motion, the parties move the court to continue all scheduling order dates, including the jury trial, until December 2021. [Doc. 40]. In support of this, the parties explain that there is “voluminous” discovery in this matter, including approximately ten gigabits of information. [Doc. 40, p. 2]. Both the Government and Defendants need time to fully review and analyze all the discovery produced to date. [*Id.*]. Additionally, the parties would like to engage in further plea negotiations. [*Id.*]. Thomas, Jones, and West have each filed written waivers of their right to a speedy trial and ask that the requested continuance be excluded from Speedy Trial Act calculations. [Docs. 42-44]. The Government also joins in the request to continue. [Doc. 40, p. 1].

Section 3161(h)(7)(A) of the Speedy Trial Act permits a federal district court to exclude any period of delay resulting from a continuance if “the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). A court must orally or in writing set forth its reasons for granting an ends of justice continuance and make findings that a continuance is in the best interest of the defendant and the public. *Id.* In cases that are not

so unusual or complex as to fall within clause (ii) of § 3161(h)(7)(B), the court shall consider whether failure to grant the continuance “would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.” 18 U.S.C. § 3161(h)(7)(B)(iv). In cases involving multiple defendants, such as this, any “reasonable period of delay” excludable as to one defendant is excludable as to his or her codefendants. 18 U.S.C. § 3161(h)(6); *see also United States v. Tranakos*, 911 F.2d 1422, 1426 (10th Cir. 1990).

In *United States v. Toombs*, 574 F.3d 1262 (10th Cir. 2009), the Tenth Circuit limited the circumstances in which an ends of justice continuance can be granted and emphasized that it should be a rarely used procedural tool. The parties must provide the district court with a sufficient record to determine why the facts stated in a motion for continuance “result[] in the need for additional time.” *Id.* at 1271. This requires the parties to provide specific information about the need for a continuance, and the district court may need to hold a hearing before granting an ends of justice continuance. *Id.* at 1272-73. A district court must also give significant weight to the public’s interest in a speedy trial, and the public’s interest is generally served by strict adherence to the requirements of the Speedy Trial Act. *Id.* at 1273.

Taking into account the exercise of due diligence, the court finds that the failure to grant the requested continuance would deny the parties the reasonable time necessary for effective preparation, as it would significantly inhibit their ability to analyze the substantial amount of discovery material in this case. It would also unduly limit the opportunity for continued plea negotiations.

The court therefore finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendants in a speedy trial.

IT IS THEREFORE ORDERED that Defendants' Joint Motion to Continue Deadlines and New Scheduling Order [Doc. 40] is granted. All deadlines in the current scheduling order [Doc. 38], including the Jury Trial set for September 20, 2021, are stricken. The following amended scheduling order is hereby entered:

Motions Due	November 8, 2021
Responses Due	November 22, 2021
PT/CP/Motions Hearing	December 8, 2021 at 9:30 a.m.
Voir Dire, Jury Instructions, and Trial Briefs Due	December 13, 2021
Jury Trial	December 20, 2021 at 9:30 a.m.

IT IS FURTHER ORDERED that September 20, 2021, through December 20, 2021, shall be excluded from any Speedy Trial calculations.

IT IS SO ORDERED this 7th day of September, 2021.


 GREGORY K. FRIZZELL
 UNITED STATES DISTRICT JUDGE