UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Harold Bennie Kaeding,

Defendant.

Case No: 21-cr-0169 (ECT/JFD)

ORDER

This matter is before the Court on Defendant Harold Bennie Kaeding's Sixth Motion for Continuance of Motion hearing (Dkt. No. 63), which the United States opposes (Dkt. No. 64). The Motion is denied because Mr. Kaeding has had sufficient time, nearly nine months, to prepare any necessary pretrial motions in this straightforward fraud case, notwithstanding the undoubted challenges his medical conditions have posed. The Court notes that Mr. Kaeding filed several motions as this Order was being docketed, suggesting that this Order may be moot. Nonetheless, the Court will proceed with issuing this Order in the interests of having a clear record.

Mr. Kaeding is charged with one count of wire fraud, 18 U.S.C. § 1343, and one count of money laundering, 18 U.S.C. § 1957. (Indict. at 8–9, Dkt. No. 1.) The United States alleges that Mr. Kaeding designed a scheme to defraud the government of hundreds of thousands of dollars by applying for federal loan programs designed to help small businesses during the COVID-19 pandemic but using the money for his own purposes. (*Id.* at 5–8.). In January 2021, the United States seized money from bank

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accounts tied to Mr. Kaeding's scheme and searched Mr. Kaeding's home. (Detention Order at 2, Dkt. No. 28.) Law enforcement found "numerous financial records, over $90,000 in cash, and various ATM receipts" in the home. (*Id.*) During the search, Mr. Kaeding told law enforcement that he submitted the loan applications at issue. (*Id.*) The parties began negotiating a resolution to the investigation, but Mr. Kaeding ended the discussions in April 2021. (*Id.*) The next month, Mr. Kaeding left for Colombia and refused to return. (*Id.* at 3) Colombian authorities found Mr. Kaeding at his wife's apartment, but he refused to open the door. (*Id.*) After speaking with an immigration officer by phone, Mr. Kaeding agreed to appear at a local immigration office. (*Id.*) He never appeared and authorities returned to Mr. Kaeding's wife's apartment, finding it empty. (*Id.)* Colombian authorities later found him at a local clinic. (*Id.* at 4.) Mr. Kaeding did not cooperate with his deportation from Colombia; he refused to tell authorities the location of his passport and would not allow his photograph to be taken. (*Id.*) This behavior required authorities to issue an emergency passport to facilitate his return to the United States. Mr. Kaeding was deported and returned to the United States in November 2021. He was arraigned and ordered detained on January 7, 2022. (*Id.* at 1).

The Court set a pretrial motion hearing for February 24, 2022. Two days before the deadline to file pretrial motions, Mr. Kaeding requested a 30-day continuance to review the "voluminous," discovery, and because he had difficulty communicating with counsel because of his hearing difficulties. (Def.'s Mot. Continuance of Mot. Hrg., Dkt. No. 31). The Court granted this unopposed motion. (*Id.*; Order, Dkt. No. 34). Mr.

Kaeding filed a second Motion for Continuance on March 3, 2022, this time requesting a 45-day extension. (Dkt. No. 36). He claimed that he was able to review only "a small portion" of the discovery because he had limited computer access in jail and because of several medical issues. (*Id.*) The Court also granted this unopposed motion. (*Id.*; Dkt. 37). In his Third Motion for Continuance, filed on April 19 2022, Mr. Kaeding reported that his condition had worsened and that he was being hospitalized for multiple infections, which limited his ability to communicate with counsel. The Court granted this third continuance, which was also unopposed. (*Id.* Dkt. 43.)

At status conferences in June 2022, defense counsel advised the Court that treating Mr. Kaeding's medical conditions was straining jail resources. (Order Regarding Detention Placement; Dkt. No. 48). While expressing their interest in facilitating adequate care for Mr. Kaeding, counsel for the United States raised concerns about the possibility of Mr. Kaeding malingering and not complying with treatment. (*Id.*). The Court eventually ordered Mr. Kaeding detained at the Columbia Regional Care Center in Columbia (CRCC), South Carolina, which appeared to have the appropriate level of sophisticated medical care, and was available to federal pretrial detainees like Mr. Kaeding.[1] (Order Regarding Detention Placement, Dkt. No. 57). Between the status conferences in June and issuing the order to transfer Mr. Kaeding, the Court also granted an unopposed fourth motion for continuance, this time for sixty

[1] The Federal Medical Center in Rochester, Minnesota is a U.S. Bureau of Prisons facility that offers tertiary-level medical care. However, FMC-Rochester is not an option for pre-trial detainees.

days. (Order, Dkt. No. 53).

Mr. Kaeding arrived at CRCC on July 27, 2022 and filed a fifth Motion for Extension of Time on August 10. (Dkt. No. 58). Mr. Kaeding claimed that CRCC did not allow him to use the assistive technologies necessary to efficiently communicate with counsel. (*Id.*) In addition, Mr. Kaeding argued that his attorney time was limited, that he currently had no access to his legal materials, and that his chronic health conditions had not improved. (*Id.*) The United States did not oppose the motion for a final 60-day continuance. (*Id.*; Dkt. No. 59).

Mr. Kaeding now requests a sixth extension and the United States objects. (Dkt. Nos. 63, 64). In support of his Motion, Mr. Kaeding cites continuing barriers to communicating with counsel (though admits that he is able to contact counsel at least once a week on Zoom), his ongoing poor health, and his limited ability to review discovery electronically and in print form. (Dkt. No. 63). The United States replies that Mr. Kaeding has had discovery for several months, which is sufficient time to determine which, if any, pretrial motions to file. (Dkt. No. 64). It further argues that the case is a "straightforward one-defendant fraud case with a routine premises search warrant and statement made by the defendant." (*Id.*) Counsel for Mr. Kaeding has not contradicted this characterization of the case.

The Court finds that nine months is enough time, even with the undoubted challenges that this case has presented, for Mr. Kaeding to become familiar with the charges against him, for his counsel to review discovery for issues requiring pretrial

motion practice, and for Mr. Kaeding and his counsel to determine what, if any, pretrial motions they should file. While parts of this case may (or may not) be complicated, decisions about pretrial motion practice in this case are not. This is a case with one defendant, a search warrant, two seizure warrants, and two interviews with law enforcement. (Tr.[2] 14–15, 18, 19–20, 41–42). The Court will not grant the extension.

Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Mr. Kaeding's Sixth Motion for Continuance of Motion Hearing is **DENIED**. All deadlines set in the Court's previous Order (Dkt. No. 59) remain in effect.

Dated: October 14, 2022

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

[2] "Tr." refers to the official transcript of the January 7, 2022 arraignment, initial appearance, and detention hearing in this case. The transcript is not filed under seal.