

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

v.

Order of Continuance

RAFAEL MARTINEZ,

22 Mag. 1988

Defendant.

-----X

Upon the application of the United States of America and the affirmation of Micah F. Fergenson, Assistant United States Attorney for the Southern District of New York, it is found that the defendant was charged with a violations of 18 U.S.C. §§ 1343 and 2 (wire fraud); 18 U.S.C. §§ 1344 and 2 (bank fraud); 18 U.S.C. §§ 1014 and 2 (making false statements to a bank); 18 U.S.C. §§ 1001 and 2 (making false statements); 15 U.S.C. § 645(a) and 18 U.S.C. § 2 (making false statements to the SBA); and 18 U.S.C. §§ 1028A(a)(1), (b), (c)(4)-(5), and 2 (aggravated identity theft), in a complaint dated February 28, 2022, and was arrested on February 28, 2022;

It is further found that the defendant was presented before Magistrate Judge Katharine H. Parker on March 1, 2022, and was ordered released on several conditions;

It is further found that counsel for the defendant and Assistant United States Attorney Micah F. Fergenson have been engaged in, and are continuing, discussions concerning a possible disposition of this case;

It is further found that the Government has requested a continuance of 30 days until May 2, 2022, to engage in further discussions with counsel about the disposition of this case, and that the defendant, through counsel, has consented that such a continuance may be granted for that purpose and has specifically waived his right to be charged in an indictment or information until May 2, 2022; and

It is further found that the granting of such a continuance best serves the ends of justice and outweighs the best interests of the public and the defendant in a speedy trial; and therefore it is

ORDERED that the request for a continuance pursuant to 18 U.S.C. § 3161(h)(7)(A) is hereby granted until May 2, 2022, and that a copy of this Order and the affirmation of Assistant United States Attorney Micah F. Fergenson be served by mail on this date on counsel for the defendant by the United States Attorney's Office.

Dated: New York, New York

March 31, 2022



UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

v.

RAFAEL MARTINEZ,

Defendant.

-----X

**Affirmation in Support of
Application for Order of Continuance**

22 Mag. 1988

State of New York)
County of New York : ss.:
Southern District of New York)

Micah F. Fergenson, pursuant to Title 28, United States Code, Section 1746, hereby declares under penalty of perjury:

1. I am an Assistant United States Attorney in the Office of Damian Williams, United States Attorney for the Southern District of New York. I submit this affirmation in support of an application for an order of continuance of the time within which an indictment or information would otherwise have to be filed, pursuant to 18 U.S.C. § 3161(h)(7)(A).

2. The defendant was charged in a complaint dated February 28, 2022, with violations of 18 U.S.C. §§ 1343 and 2 (wire fraud); 18 U.S.C. §§ 1344 and 2 (bank fraud); 18 U.S.C. §§ 1014 and 2 (making false statements to a bank); 18 U.S.C. §§ 1001 and 2 (making false statements); 15 U.S.C. § 645(a) and 18 U.S.C. § 2 (making false statements to the SBA); and 18 U.S.C. §§ 1028A(a)(1), (b), (c)(4)-(5), and 2 (aggravated identity theft). The defendant was arrested on February 28, 2022, and was presented before Magistrate Judge Katharine H. Parker on March 1, 2022. At the initial presentment, the defendant was represented by Joseph Hayden. The defendant was ordered released on several conditions.

3. At the initial presentment, Mr. Hayden consented to a waiver of his client's right pursuant to Rule 5.1 of the Federal Rules of Criminal Procedure to a preliminary hearing within 21 days of the initial appearance. Accordingly, under the Speedy Trial Act, the Government initially had until March 31, 2022, within which to file an indictment or information.

4. Following the initial presentment, the defendant retained Elkan Abramowitz, Telemachus Kasulis, Michael Schachter, and Randall Jackson. Defense counsel and I have had discussions regarding a possible disposition of this case, including as recently as March 28, 2022. The negotiations have not been completed and we plan to continue our discussions, but do not anticipate a resolution before March 31, 2022.

5. Therefore, the Government is requesting an additional 30-day continuance until May 2, 2022, to continue the foregoing discussions and reach a disposition of this matter.

6. On March 15, 2022, I exchanged emails with Mr. Jackson, who specifically consented to this request on behalf of the defendant.

7. For the reasons stated above, the ends of justice served by the granting of the requested continuance outweigh the best interests of the public and defendant in a speedy trial.

Dated: New York, New York
March 31, 2022



Micah F. Fergenson
Assistant United States Attorney
212-637-2190