

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

No. 22-mj-30125

-vs-

Java Dominique Carter,

Defendant.

**STIPULATION TO ADJOURN PRELIMINARY HEARING AND FOR
DETERMINATION OF EXCLUDABLE DELAY UNDER
THE SPEEDY TRIAL ACT AND SUPPORTING BRIEF**

The United States of America, by and through its undersigned attorneys, and defendant Java Carter, through his attorney, move for an adjournment of the preliminary hearing and an ends-of-justice continuance under the Speedy Trial Act.

In support, the parties state as follows:

1. Defendant was arrested on the criminal complaint in this case on March 15, 2022 , and he made his initial appearance on the criminal complaint on March 16, 2022. Defendant was released on a \$10,000 unsecured bond. The preliminary hearing is currently scheduled to take place on February 3, 2023
2. The government and defendant are engaged in preindictment plea negotiations that may result in a plea agreement which will eliminate the need for

this Court to conduct a preliminary hearing. A preindictment plea agreement will also provide that defendant waive his right to be prosecuted by indictment and thus eliminate the need for the government to seek an indictment and consume grand jury resources. In addition, a preindictment plea agreement will also eliminate the need for a trial.

3. A part of the plea negotiations involves defense counsel's assessment of the government's case against defendant. This assessment requires that defense counsel have the reasonable time necessary to adequately review the information provided and/or to be provided by the government and then confer with defendant.

4. In light of the above, the parties submit there is good cause to adjourn the preliminary hearing. Moreover, defendant has consented to this adjournment, and the adjournment sought is fairly limited. *See* Fed. R. Crim. P. 5.1(d) ("With the defendant's consent and upon a showing of good cause – taking into account the public interest in the prompt disposition of criminal cases – a magistrate judge may extend the time limits in Rule 5.1(c) one or more times.").

5. In addition, in light of the above, the parties submit that the ends of justice served by a continuance of the 30-day arrest-to-indictment period under the Speedy Trial Act will outweigh the best interest of the public and the defendant in a speedy indictment. *See* 18 U.S.C. § 3161(h)(7) ("The following periods of delay shall be

excluded in computing the time within which an information or an indictment must be filed: . . . (7) Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel, or at the request of the attorney for the Government, 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 [indictment].”). Such a continuance would allow the parties to continue their preindictment plea negotiations without strict time constraints and pursue an expeditious and fair resolution of the government’s prosecution of defendant. It would also likely result in the conservation of judicial and prosecutorial resources by eliminating the need for a preliminary hearing and in the conservation of grand jury and prosecutorial resources by eliminating the need for defendant to be prosecuted by way of a grand jury indictment. And it would also likely result in the conservation of judicial and prosecutorial resources by eliminating the need for a trial.

6. Accordingly, the parties request that this Court find there is good cause to adjourn the preliminary hearing in this case and order that the preliminary hearing be adjourned from February 3, 2023 to April 4, 2023. The parties also request that this Court find, based on the information and explanation set forth above, that the

ends of justice served by a continuance of the 30-day Speedy Trial Act arrest-to-indictment period will outweigh the best interest of the public and the defendant in a speedy indictment. The parties request that this ends-of-justice continuance begin on the date of this motion and continue through April 4, 2023 and that that period be deemed excludable delay pursuant to 18 U.S.C. § 3161(h)(7).

Respectfully submitted,

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s/ Craig Weier

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Dated: February 2, 2023

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
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United States of America,

Plaintiff,

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-vs-

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_____ /

ORDER

This matter coming before the Court on the parties' Stipulation to Adjourn Preliminary Hearing and for Determination of Excludable Delay under the Speedy Trial Act, and, for the reasons stated in the parties' joint motion, the motion is granted.

The Court finds, based on the information and explanation set forth in the stipulation, that there is good cause to adjourn the preliminary hearing in this case and orders that it be adjourned from February 3, 2023 to April 4, 2023. *See* Fed.R. Crim. P. 5.1(d). Specifically, the Court finds:

1. The government and defendant are engaged in preindictment plea negotiations that may result in a plea agreement which will eliminate the

need for this Court to conduct a preliminary hearing. A preindictment plea agreement will also provide that defendant waive his right to be prosecuted by indictment and thus eliminate the need for the government to seek an indictment and consume grand jury resources. In addition, a preindictment plea agreement will also eliminate the need for a trial.

2. A part of the plea negotiations involves defense counsel's assessment of the government's case against defendant. This assessment requires that defense counsel have the reasonable time necessary to adequately review the information provided and/or to be provided by the government and then confer with defendant.
3. Moreover, defendant has consented to this adjournment, and the adjournment sought is fairly limited.

In addition, for the reasons stated in the government's motion, the Court finds, based on the information and explanation set forth in the government's motion, that the ends of justice served by a continuance of the 30-day Speedy Trial Act arrest-to-indictment period will outweigh the best interest of the public and the defendant in a speedy indictment. *See* 18 U.S.C. § 3161(h)(7). Accordingly, the Court grants a continuance until April 4, 2023, and orders that the period from

February 3, 2023 to April 4, 2023 be deemed excludable delay pursuant to 18 U.S.C. § 3161(h)(7).

s/Kimberly G. Altman

Kimberly G. Altman
United States Magistrate Judge

Dated: February 2, 2023