IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA	
v.	Criminal Action
JERRY BAPTISTE	No. 1:20-cr-296-13-JPB-CMS

UNITED STATES' UNOPPOSED MOTION TO CONTINUE TRIAL

The United States of America, by Ryan K. Buchanan, United States Attorney for the Northern District of Georgia, and Tal C. Chaiken and Lauren T. Macon, Assistant United States Attorneys, respectfully files this Motion to continue the trial date currently set for October 7, 2024. The United States respectfully asks the Court to reset the trial to December 9, 2024, December 16, 2024, or March 2025. Defendant Jerry Baptiste's counsel does not oppose a continuance, but expressed a preference for a trial date before March 2025 and has a conflict in December 2024 as described below.

Procedural History

On July 13, 2021, a grand jury returned a First Superseding Indictment charging Baptiste and others with conspiracy to commit bank and wire fraud (18 U.S.C. § 1349), bank fraud (18 U.S.C. § 1344), wire fraud (18 U.S.C. § 1343), false statements to a federally insured financial institution (18 U.S.C. § 1014), and money laundering (18 U.S.C. § 1956). (Doc. 133.) The Honorable Alan J. Baverman released Baptiste on bond and appointed attorney Douglas W. Gilfillan to represent Baptiste. (Docs. 246, 251.) On August 10, 2021, a grand jury returned a Second Superseding Indictment that added another co-defendant.

(Doc. 290.) After the Parties litigated pretrial motions, on May 11, 2023, the Court set a February 5, 2024 trial date for Baptiste and three co-defendants. (Doc. 676.)

On January 22, 2024 – two weeks before the scheduled trial – Baptiste filed a notice of intent to terminate Gilfillan as his attorney. (Doc. 838.) At the pretrial conference on January 24, 2024, the Court granted Baptiste's request to represent himself. (Doc. 861.) Baptiste did not appear for trial on February 5, 2024. (Doc 905.) He was arrested the next day in the Middle District of Florida and detained pending trial. (Doc. 906.) After Baptiste's arrest, the Court set a trial date of April 25, 2024. (Doc. 943.)

On March 12, 2024, the grand jury returned a Third Superseding Indictment that, in addition to the previous charges, charged Baptiste with failure to appear (18 U.S.C. § 3146). (Doc. 954.) Baptiste appeared before the Court on March 13, 2024, and requested a 30-day continuance to retain counsel. (Doc. 953.) The Court granted Baptiste's request, cancelled the April 2024 trial date, and de-certified the case. (Doc. 953.) On April 12, 2024, Baptiste again requested additional time to retain counsel, which the Court granted. (Docs. 966, 973.) On May 23, 2024, after learning that Baptiste still had not retained counsel, the Honorable Catherine M. Salinas appointed Thomas C. Wooldridge to represent Baptiste. (Docs. 1013, 1014.)

After new counsel was appointed, with the goal of facilitating counsel's review of the evidence in advance of a trial, the United States provided counsel with the exhibits related to Baptiste that the United States had prepared in advance of the February 5, 2024 trial for which Baptiste did not appear.

On May 30, 2024, Baptiste filed a motion to continue the pretrial deadlines for thirty days, which the United States did not oppose. (Doc. 1012.) On July 8, 2024, Baptiste filed another motion to continue the pretrial deadlines for thirty days, which the United States did not oppose. (Doc. 1059.) However, in informing counsel that it would not oppose the thirty day continuance, the United States explained that it had anticipated the case would be tried in September 2024 if certified in July 2024, that lead counsel has trial conflicts as identified below, and that if the case is not certified until mid-to-late August 2024, the United States would likely ask for a trial date in or after March 2025. Judge Salinas certified the case ready for trial on August 8, 2024. (Doc 1101.) The Court has set an October 7, 2024 trial date. (Doc. 1107.)

Requested Continuance

Assistant U.S. Attorney Tal C. Chaiken, who has been lead counsel on this matter from the outset and who was lead counsel in the February 5, 2024 trial of two of Baptiste's co-defendants, is also lead counsel in the following already-scheduled trials:

1. *United States v. Kanyadan, et al.*, 4:23-cr-28-WMR (Rome Division) – anticipated to last approximately two weeks.
2. *United States v. Mohamed, et al.*, 1:22-cr-283-VMC – anticipated to last approximately four weeks.

In addition, AUSA Chaiken has a pretrial conference scheduled for the *Kanyadan* trial in Rome, Georgia on October 7, 2024 at 1:30 p.m. and previously entered a leave of absence for personal travel scheduled for October 12, 2024 through October 20, 2024, and February 18 through February 21, 2025 (Docs. 960, 1102.)

The United States respectfully requests a continuance of the October 7, 2024 trial date. A continuance of the trial date would serve the ends of justice because it would ensure continuity of counsel and reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A), (B)(iv). The United States anticipated trying Baptiste on February 5, 2024 with his co-defendants, but Baptiste chose not to appear for that trial. After Baptiste's arrest, the United States anticipated trying Baptiste in Spring or Summer 2024, but Baptiste repeatedly asked for continuances, purportedly to retain counsel, though he never did so. After counsel was appointed for Baptiste, the United States provided counsel with the exhibits it had prepared for the February 5, 2024 trial to facilitate and expedite counsel's review of the evidence in advance of a trial. And when Baptiste's counsel asked the United States for an additional continuance in July 2024, the United States informed Baptiste's counsel of the likelihood that such a continuance would cause scheduling conflicts as described above and would lead the United States to request a trial date in March 2025.

The United States is especially concerned about the Parties' ability to complete the trial by October 11, 2024 (before AUSA Chaiken's scheduled leave). Shortly before the previously scheduled trial, Baptiste terminated his attorney and elected to represent himself. If Baptiste does so again here, his self-representation would inject significant uncertainty into the length of the trial. And even if Baptiste proceeds to trial represented by his new counsel, the Parties' ability to complete the trial within five trial days is uncertain.

The United States is available for trial during the weeks of December 9, 2024, or December 16, 2024. However, the United States understands from Baptiste's counsel that he is scheduled for oral argument before the Eleventh Circuit during the week of December 16, 2024. If the Court is amenable to a trial date in December 2024, the United States respectfully suggests that trial could be paused for half a day (if necessary depending on the trial date) to enable Baptiste's counsel to argue in the Eleventh Circuit. Otherwise, the United States respectfully requests a trial date in March 2025 because, as described above, AUSA Chaiken is scheduled to begin a four-week trial on January 21, 2025, and has previously scheduled leave for February 18 through February 21, 2025. (Docs. 960, 1102.)

Conclusion

For these reasons, the United States respectfully asks the Court to continue the October 7, 2024 trial in this case to December 9, 2024, December 16, 2024, or March 2025.

Dated: August 11, 2024

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