

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 09-369 (DMC)
v. : Hon. Dennis M. Cavanaugh, U.S.D.J.
PAUL W. BERGRIN :

MOTION OF THE UNITED STATES
TO EXCLUDE TIME PURSUANT TO THE SPEEDY TRIAL ACT

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On the Brief:

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I. Background

On July 30, 2012, the Third Circuit Court of Appeals issued a certified judgment in lieu of a formal mandate, which, in part, directed “the Chief Judge of the District Court to reassign this matter.” On August 2, 2012, Chief Judge Jerome B. Simandle signed an order reassigning this matter to the Hon. Dennis M. Cavanaugh. On August 3, 2012, this Court scheduled a status conference for August 7, 2012. The government submits the instant motion requesting that the Court issue an order excluding the time period of August 3, 2012 through and including August 7, 2012 pursuant to 18 U.S.C. § 3161(h)(7)(A).

II. The Court should issue an order excluding the time period of August 3, 2012 through August 7, 2012 pursuant to 18 U.S.C. § 3161(h)(7)(A).

The government respectfully submits that the ends of justice warrant this Court issuing an order finding that the period of delay from August 3, 2012 through August 7, 2012 are excluded from computation under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A). The ends of justice outweigh the best interest of the public and the defendant in a speedy trial for the following reasons:

- (1) The period of delay sought is brief, only five days;
- (2) This case just returned to the District Court and trial prior August 7, 2012 is not practicable;
- (3) The government intends to file motions and requests a briefing schedule so that these motions can be resolved prior to trial; and
- (4) Similarly, the defendant will likely file additional motions or request that the Court make certain rulings in light of the evidentiary rulings of the Court of Appeals;

III. Conclusion

For the foregoing reasons, the government respectfully requests that Court issue an order, pursuant to 18 U.S.C. § 3161(h)(7)(A), excluding the period of August 2, 2012 through August 7, 2012 from computation under the Speedy Trial Act. A proposed order is attached.

Respectfully Submitted,

PAUL J. FISHMAN
United States Attorney

/S John Gay

By: John Gay
Assistant U.S. Attorney

Dated: August 2, 2012
Newark, New Jersey.