

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No.: 19-10080-NMG
)	
DAVID SIDOO, <i>et. al.</i> ,)	
)	
Defendants)	

ASSENTED-TO MOTION TO CONTINUE OCTOBER 2020 TRIAL

On February 27, 2020, this Court scheduled two jury trials in the above-referenced case. The first – which is the subject of this motion – is set to begin on October 5, 2020 with jury selection starting September 29. There are four defendants remaining in that trial. The second is scheduled to begin on January 11, 2021; six defendants remain in the second trial. For the reasons set forth below, the government – with the assent of the October trial defendants – moves to continue the October trial until late February 2021 or a date thereafter that is convenient for the Court.

1. Witness Preparation and Trial Attendance: The vast majority of the potential witnesses in this case reside in California,¹ Texas and Georgia, states where there has been a significant surge in cases of COVID-19. Given the current trial date, the parties will need to begin preparing witnesses in the coming weeks. The evidence in this case consists largely of documents and recordings. Thus, in order to adequately prepare witnesses for both direct and cross examination, it is necessary to meet with them in person. This will require air travel by the witnesses and/or representatives of the government, among others, and potentially two weeks of quarantine upon arrival or return or both. Witness preparation, therefore, will be exceedingly difficult and is likely to create safety concerns for individuals involved, some of whom are particularly susceptible to COVID-19 due to

¹ Los Angeles County, where the University of Southern California is located, has recently experienced a surge in COVID cases and hospitalizations. *See, e.g.*, <https://losangeles.cbslocal.com/2020/07/14/coronavirus-los-angeles-county-single-day-record-cases-hospitalizations/>.

age. These conditions also appear likely to complicate the orderly flow of trial and make it difficult, if not impossible, to secure witness attendance.

2. Likelihood of Multi-Defendant Trials in the Courthouse: General Order 20-21 issued by the District Court provides that jury trials are suspended through September 8, 2020. While we await additional guidance from the Court, it appears unlikely that a high profile, four defendant trial – projected to last three to six weeks – will be feasible in the courthouse on September 29, 2020. Indeed, it is unclear whether and how the Court could safely accommodate a jury venire large enough to ensure the selection of a trial jury with sufficient alternates.

In addition, defense counsel involved in the October trial have indicated that absent the requested continuance, they anticipate difficulty interviewing and subpoenaing potential defense witnesses and having face-to-face meetings with clients who live in Florida, California and Nevada. Indeed, such meetings may raise significant health concerns for defense counsel and/or their families who may be at higher risk for complications from COVID-19.

For these reasons, the parties seek a late February 2021 trial date, or a date thereafter that is convenient to the Court. Such a date should allow sufficient time to complete the trial scheduled to begin January 11 and address the issues raised herein.² The parties also seek to amend the pretrial order deadlines set forth at Docket No. 1251 in accordance with the revised trial date should the Court allow this motion.

² The government is not – at this time – moving to continue the January 11 trial in the hope that travel will be safer and multi-defendant trials will be feasible in the courthouse by that time. The government also recognizes that it is possible that additional defendants will change their pleas prior to the January trial. Should that happen, the Court may consider consolidating the two trials. The government anticipates addressing these issues at a later date, should they arise.

Respectfully submitted,

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Date: July 16, 2020

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants .

/s/ Karin M. Bell
Karin M. Bell
Assistant United States Attorney

Date: July 16, 2020