

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

THOMAS ANDREWS DRAKE,

Defendant.

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Case No. RDB 10 CR 1081

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FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

ORDER TO EXCLUDE TIME

Whereas, this matter, comes before the court on the agreement of the parties for entry of an order excluding time based upon "the ends of justice" outweighing "the best interests of the public and the defendant in a speedy trial" pursuant to 18 U.S.C. §3161(h)(7)(A) and (7)(B)(i), (ii) and (iv);

Whereas, the Indictment issued on April 14, 2010;

Whereas, the prosecution of this case will involve classified documents, and counsel for defendant Drake must receive the proper security clearances in order to review the classified documents in this case. Absent such security clearances, the United States cannot discharge its discovery obligations as it relates to the classified documents, and counsel for defendant Drake cannot review the classified materials in this case and determine what, if any, additional classified materials may be needed from the United States;

Whereas, preparing for trial in this case will take significantly longer than typical cases because the case presents complex legal and factual issues and novel questions of law. Counsel for the defendant was only recently appointed in this matter and needs ample time to investigate and research the factual and legal issues;

Whereas, all parties have been exercising due diligence in obtaining the necessary security clearances;

Accordingly, it is this 29th day of April, 2010, by the United States District Court for the District of Maryland, ORDERED:

1. Pursuant to 18 U.S.C. §3161(h)(7)(B)(i), a continuance is essential to allow the case to proceed. Absent a continuance, and given the classified documents involved in this case, the United States will not be able to discharge its discovery obligations in a timely manner, and the defendant cannot investigate this case and prepare for trial, resulting in a miscarriage of justice for both parties;

2. Pursuant to 18 U.S.C. §3161(h)(7)(b)(ii), a continuance is essential to allow counsel for the defendant ample time to investigate the case and to research and explore the case's complex legal and factual issues and novel questions of law. Absent a continuance, counsel for the defendant will not have adequate time to prepare for trial.

3. Pursuant to 18 U.S.C. §3161(h)(7)(B)(iv), even if sufficient grounds for a continuance did not exist under § 3161(h)(7)(b)(ii), a continuance is essential to allow the United States and the defendant "the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Once again, given the classified documents involved in this case and the need for security clearances, the United States cannot discharge its discovery obligations in a timely manner, and the defendant cannot investigate this case and prepare for trial, even with the exercise of due diligence, without a continuance in this matter;

4. Based upon the foregoing, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), the ends of justice served by not fixing a trial date within the time limits

established by the Speedy Trial Act outweigh the best interest of the defendants and the public in a speedy trial, and this Court orders the exclusion of time from and including the date of the arraignment, April 23, 2010, through and including the trial date, which is scheduled to commence on October 18, 2010.



HONORABLE RICHARD D. BENNETT
United States District Judge