

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 17-CR-92

JAY L. FUSS,

Defendant.

MOTION TO ADJOURN PRETRIAL CONFERENCE AND TRIAL

The defendant, by attorney Tom Phillip, hereby requests that the Court reschedule the final pretrial conference and trial in this matter, currently scheduled for July 19, 2017, and August 7, 2017, respectively. Counsel requests that the matter be set for a status conference in approximately 90 days. The defendant believes that the ends of justice served by an adjournment outweigh the best interest of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

As grounds, counsel submits the following:

1. Fuss is charged in a one-count indictment with converting to his own use the property of another in violation of 18 U.S.C. § 666(a)(1)(A). Docket No. 1.

2. Fuss made his initial appearance on May 31, 2017. Docket No. 4. He was released on a recognizance bond with the usual conditions. Docket No. 7. Upon information and belief, Fuss has been compliant with his conditions of release.

3. The pretrial conference is scheduled for July 19, 2017, and the trial is scheduled for August 7, 2017. Docket No. 3.

4. The government has provided approximately 4800 pages of discovery materials to date. That number may increase, as counsel is having difficulty accessing some of the materials due to their format.

5. Counsel will not be able to review this large amount of discovery in the relatively short time available. Counsel is also involved in several other discovery-intensive cases currently pending in this Court such as *United States v. Howard*, 17-CR-77; *United States v. Beyer*, 17-CR-26; and *United States v. Young*, 16-CR-169.

6. Counsel for both parties indicated at the initial appearance that the currently scheduled dates were problematic. Undersigned counsel, for example, indicated that the currently scheduled trial date was not available on his calendar. On information and belief, one of the government's witnesses may also have some difficulty with the currently scheduled trial date.

7. The defendant is released on a recognizance bond. The case is not violent or drug-related. The indictment was issued on May 23, 2017, but the facts related in the indictment are alleged to have occurred in 2012 and 2013.

8. Counsel is authorized to state that AUSA William J. Roach, counsel for the government in this matter, does not object to the proposed adjournment.

9. Counsel believes that the ends of justice served by an adjournment outweigh the best interest of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

10. Specifically, additional time would enable counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

THEREFORE, on the above grounds, counsel for Fuss respectfully requests that the pretrial conference and trial in this matter be adjourned. Counsel requests that the matter be placed on the calendar for a status conference in approximately 90 days.

Dated at Green Bay, Wisconsin, this 14th day of June, 2017.

Respectfully submitted,

s/ Tom Phillip

Tom Phillip, Bar #1023113

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