

- (i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.
- (ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.
- (iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.
- (iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the

defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

18 U.S.C. § 3161(h)(7)(B).

The Court finds that the ends of justice served by granting this extension outweigh the interests of the public and defendants in a speedy trial. Specifically, the Court finds that the following points justify the extension:

1. Defendant is charged with two counts of an eight count Indictment. Specifically, he is charged with Possession of Forged Permanent Resident Cards in violation of 18 U.S.C. §§ 1546(a) and 2 and Fraudulent Transfer of False Identification Documents in violation of 18 U.S.C. §§ 1028(a)(2) and 2.
2. Counsel needs additional time to review the plea agreement with her client. Counsel will be in a federal jury trial in the Western District of Missouri beginning February 14, 2011. That “wiretap” trial is expected to last approximately 14 days as there are five codefendants and voluminous evidentiary documents. Counsel would have insufficient time to prepare for trial or review the proposed plea agreement with her client before the February 28th trial date.
3. Ms. Tricia Tenpenny represents the codefendant, Yvette Antunez-Giles. Ms. Tenpenny previously filed a motion to continue the trial setting due to the fact that Ms. Giles is 9 months pregnant and expected to give birth at the end of February of 2011. Ms. Tenpenny does not object to this request.
4. AUSA David Zabel does not object to a continuance.

The Court finds that failure to grant a continuance would result in a miscarriage of justice and that defendants’ interest in preparing a full and adequate defense outweighs the interest of the public and defendants in a speedy trial. The Court is not convinced, however, that a 60-day continuance is justified. The Court therefore finds that the period from February 28, 2011 to March 14, 2011 is excludable under 18 U.S.C. § 3161(h)(7) because the ends of justice served by granting this continuance outweigh the interest of the public and defendants in a speedy trial.

**IT IS THEREFORE ORDERED** that defendant Joel Antunez-Mendoza’s Motion To Continue Jury Trial (Doc. #28) filed February 10, 2011 be and hereby is **SUSTAINED in part**.

**IT IS FURTHER ORDERED** that trial of defendants Yvette Antunez-Giles and Joel Antunez-Mendoza is continued to March 14, 2011 at 9:30 a.m. in Courtroom 476, Robert J. Dole United States Courthouse, 500 State Avenue, Kansas City, Kansas.

Dated this 12th day of February, 2011 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge