

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 10-40026-01-RDR

JAIME SAUL PRECIADO-RIVERA,

Defendant.

O R D E R

This case is before the court upon defendant's unopposed motion for an order continuing the deadline to file pretrial motions from February 1, 2011 to April 1, 2011. Defendant is in custody awaiting trial upon a charge of conspiring with others to distribute 500 grams or more of methamphetamine.

Defense counsel notes that he received discovery from the government on approximately January 20, 2011 and that it is voluminous, amounting to 3,364 pages of material. Meanwhile, defense counsel has been busy preparing for jury trials in a sex offense matter set for trial on January 31, 2011 and a capital murder case set for trial on February 22, 2011. Defense counsel states that he is the only attorney in his small firm who practices criminal defense.

While this case is not unusual, it appears that it is sufficiently complex that it would be unreasonable to require defense counsel to have filed pretrial motions by the February 1,

2011 deadline and that a continuance is necessary to prevent a miscarriage of justice taking into account the exercise of due diligence.

Defendant is in custody and is not a threat to the public. After considering the various factors set forth in 18 U.S.C. § 3161(h), the court believes that granting the proposed continuance serves the interests of justice and that taking this action outweighs the best interest of the public and the defendant in a speedy trial. Therefore, the continuance granted by this order shall be considered excludable time for the purposes of the Speedy Trial Act. 18 U.S.C. § 3161(h)(7).

Defendant shall be granted time until April 1, 2011 to file pretrial motions. The government shall have time until April 8, 2011 to respond to the pretrial motions. A hearing upon the pretrial motions shall be set for April 15, 2011 at 11:00 a.m.

IT IS SO ORDERED.

Dated this 4th day of February, 2011 at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge