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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>UNITED STATES OF AMERICA,</b>	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 10-40110-01-RDR</b>
	)	
<b>STEVEN ALLEN CONTEE,</b>	)	
<b>Defendant.</b>	)	
_____	)	

**ORDER TO CONTINUE TRIAL**

**NOW** on this 14<sup>th</sup> day of March, 2011, the above-entitled matter comes before the court upon the motion of counsel for the accused for an order continuing the date for trial. The Court, after reviewing the motion and being fully advised in the premises finds that there exists good cause for the motion, and the motion should therefore be sustained.

Trial was set to commence March 21, 2011. Current defense counsel was appointed on February 28, 2011, after prior counsel withdrew. In support of this motion, counsel for the defendant states that discovery has been received from the government but counsel has not yet been able to review all of it and additional discovery is expected to be received. As a result, counsel has been unable to perform the necessary investigation and research to ascertain what motions are needed and to prepare them as well as prepare for trial. Counsel for the defendant states that he is a sole practitioner and unable to review all of the discovery and complete investigation in this case prior to the date currently set for trial in this case. Taking into account the exercise of due diligence, it is unreasonable to expect adequate preparation within the time limits set by the Court and specified by the Speedy Trial Act (18 U.S.C. § 3161).

The Court finds that the short time between counsel's appointment and the fact that counsel has not yet received all discovery items will require additional time. The court finds that, taking into account due diligence, it is not reasonable to expect adequate preparation by counsel within the time limits previously set by the Court and those specified in 18 U.S.C. §3161. Counsel is a sole practitioner and requests an additional 45 days to begin trial in this case. The Court finds such request to be reasonable. Counsel for the government has no objections to an extension, and neither party will be prejudiced by a continuance. The defendant is in custody on these charges.

In light of defense counsel's representations, the Court finds the request reasonable and promotes the effective assistance of counsel as required under the Sixth Amendment. The Court further finds that the failure to grant such a continuance would deny counsel for the defendant the reasonable time necessary for effective preparation in this case, taking into consideration defense counsel's due diligence, and that the failure to grant such a continuance would result in a miscarriage of justice. Accordingly, the Court finds that a continuance based on the ends of justice served outweighs the interest of the public and the defendant in a speedy trial pursuant to 18 U.S.C. § 3161(h)(7)(A). The time period of this continuance shall be excluded for purposes of determining the speedy trial in this case.

**IT IS THEREFORE ORDERED THAT** defendant's Motion to Continue Trial is granted. The trial of defendant Contee and his co-defendant shall be rescheduled to May 3, 2011 at 9:30 a.m. The period of delay resulting from such extension shall be excludable time as provided for by the Speedy Trial Act, 18 U.S.C. § 3161(h)(7).

**s/Richard D. Rogers**  
**United States District Judge**