

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 10-40128-01-RDR

MATTHEW THILLE,

Defendant.

O R D E R

This case is before the court upon the government's motion to toll the trial clock. This case is set for trial on April 26, 2011. The government proffers that on March 21, 2011 defendant "engaged in an escape from a county courthouse, a chase, and a shoot-out with law enforcement," and that defendant "survived despite being wounded, was hospitalized, and is now in custody of local authorities." Doc. No. 21. The government suggests that it may be difficult to obtain custody over defendant. The government does not indicate how long it believes the trial clock should be tolled.

Defendant opposes the government's motion insofar as it asks for an indefinite suspension of the speedy trial deadlines. Defense counsel represents that it is not unusual for there to be concurrent state and federal prosecutions. Defense counsel further represents that defendant is currently in state custody, has appeared in state court and had counsel appointed to represent him.

Defendant does not object to and, in fact, moves for a 30-day continuance of the trial date because of the interruption of trial preparation caused by defendant's new arrest and hospitalization.

Upon review, the court shall deny the government's motion to toll the trial clock. However, the court shall grant a continuance of the trial until May 26, 2011 at 9:30 a.m. The court finds that this continuance is in the interests of justice because events involving defendant have required that additional time be made available for trial preparation. The court finds that these interests outweigh the interests of the public and the defendant in a speedy trial. Accordingly, the extra time granted by this order shall be considered excludable time under the provisions of 18 U.S.C. § 3161(h)(7)(A).

IT IS SO ORDERED.

Dated this 13th day of April, 2011 at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge