

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**Case No. 11-40057-01/03-RDR**

MARCOS FIDEL MOJICA-CRUZ  
and JUAN ANGEL CRUZ,

Defendants.

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**O R D E R**

This matter is presently before the court upon defendants' motions for an extension of time to file pretrial motions. Mojica-Cruz seeks an extension of 10 days. Cruz seeks an extension of 7 days. The defendants seek the extensions so they can attempt to resolve this matter through plea agreements. The defendants note that the government does not object to these motions.

The defendants are charged in a two-count indictment with (1) conspiracy to possess with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. § 846 and (2) distribution of 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. § 841(a)(1). The defendants are in custody pending trial. The current deadline for filing pretrial motions is July 2, 2012.

Under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), the court

may exclude a period of delay from the time computed under the Act's deadlines for starting a trial if the court finds that the ends of justice served by granting the continuance outweigh the best interests of the public and the defendant in a speedy trial. To make this determination, the court must consider the following factors, "among others:" 1) whether the failure to grant the continuance would likely make the continuation of the proceeding impossible or result in a miscarriage of justice; 2) whether the case is unusual, complex or contains novel issues which require additional time for preparation; 3) whether there was a delay in filing the indictment which justifies a continuance; and 4) whether the failure to grant a continuance would deny the defendant reasonable time to obtain counsel, or deny either side continuity of counsel, or deny the attorney for the government or defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

After full consideration, the court finds that the denial of the requested extensions may deny counsel and defendants the time necessary to adequately resolve this matter. The court believes that the requested continuance is in the interests of the public and the parties because it will facilitate a fair, just and efficient resolution of this matter.

In sum, the court finds that the continuances requested are in the interests of justice which outweigh the interests of the public

and the defendants in a speedy trial. Therefore, the continuance requested constitutes excludable time under 18 U.S.C. § 3161(h)(7). The defendants' motions shall be granted and they shall be allowed until July 12, 2012 in which to file pretrial motions. The court, however, will not allow any further extensions in this case. The government shall be allowed until July 23, 2012 to file its responses. The hearing on all pretrial motions filed in this case shall be held on July 31, 2012 at 10:00 a.m.

**IT IS SO ORDERED.**

Dated this 6<sup>th</sup> day of July, 2012 at Topeka, Kansas.

s/Richard D. Rogers  
United States District Judge