

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 12-40016-02

ROSA AMELIA R. GOMEZ,

Defendant.

O R D E R

The indictment in this case charges Juan Luis Diaz and Rosa Amelia Gomez with possession with intent to distribute powder cocaine. This case is before the court upon defendant Gomez's motion for additional time to file pretrial motions. Doc. No. 20. The motion is unopposed.

The motion states that this is the first motion for additional time to file motions and that additional time is necessary because counsel has not received all of the discovery in this case.

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 interest 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.

Most of the factors described above are not relevant to this case. However, the court finds that the denial of the requested continuance may deny counsel and defendants the time necessary to adequately assess the legal issues in this case and consider whether to file pretrial motions and what pretrial motions to file, taking into account the exercise of due diligence. The court finds that the continuance is in the interests of the public and the parties because it may save time and money and facilitate a fair, just and efficient resolution of this matter. The court has no grounds at this time to believe that defendants are a threat to the public pending the resolution of this case.

In sum, the court finds that the continuance requested is in the interests of justice which outweigh the interests of the public and the defendant in a speedy trial. Therefore, the continuance requested constitutes excludable time under 18 U.S.C. § 3161(h)(7).

Defendant's motion shall be granted and each defendant shall be granted time until May 22, 2012 to file pretrial motions. The government shall have time until May 30, 2012 to respond to the motions. A hearing upon any motions filed shall be scheduled for June 15, 2012 at 11:00 a.m.

IT IS SO ORDERED.

Dated this 7th day of March, 2012 at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge