

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

United States of America,
Plaintiff,

vs.

Case No. 14-10005-01-JTM

David G. Nicholas, Jr.,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on defendant's *pro se* Motion to Replace Counsel, which seeks appointment of a new attorney, asserting "justifiable dissatisfaction" with his present counsel. (Dkt. 95). David Nicholas argues that counsel has been deficient in failing to dismiss the action under the Speedy Trial Act, 18 U.S.C. § 3173, and the Sixth Amendment to the United States Constitution, and in failing to submit a motion to suppress post-arrest statements.

Defendant's motion, filed on the eve of trial, is denied. The defendant's present counsel is his *third* appointed attorney. All of the attorneys appointed to represent defendant have been experienced and capable counsel, and the court has approved prior substitutions in the interest of ensuring a fair trial, even in the absence of any clear showing

of need.

The present motion is simply a transparent attempt to further delay trial, without a shred of justification. There is no indication that the government is relying on Nicholas's post-arrest statements for its case-in-chief, or that, if it were, there is any reasonable basis for suppression. Similarly, no violation of the defendant's speedy trial rights exists. Indeed, the defendant's sudden invocation of his right to a speedy trial rings particularly hollow under the circumstances of the present case.

Trial in this action, a relatively straight forward prosecution for possession of firearms and ammunition by a felon or fugitive, was originally scheduled for May 1, 2014. That is, *more than one year ago*. The matter has been continued, at defendant's repeated request, based upon insubstantial and unmerited complaints regarding his representation. His present motion, therefore, is denied.

The trial will take place as scheduled.

IT IS SO ORDERED this 5th day of May, 2015, that the defendant's Motion to Replace Counsel (Dkt. 95) is hereby denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE