

APPENDIX “B”

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CRIMINAL MINUTES—GENERAL

Case No. **EDCR 20-00190-JGB**

Date February 2, 2021

Title ***United States of America v. David Anthony Battle***Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE**

MAYNOR GALVEZ

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

**Proceedings: Order (1) DENYING Defendant's Motion to Dismiss (Dkt. No. 26); and
(2) VACATING the February 5, 2021 Hearing (IN CHAMBERS)**

Before the Court is a Motion to Dismiss filed by Defendant David Anthony Battle ("Battle"). ("Motion," Dkt. No. 26.) The Court finds the Motion appropriate for resolution without a hearing. See Fed. R. Crim. P. 12. After considering the papers filed in support of and in opposition to the Motion, the Court DENIES the Motion. The Court vacates the hearing set for February 5, 2021.

I. BACKGROUND

Battle was arraigned on September 24, 2020; ordered detained on September 30, 2020; and indicted on October 7, 2020, on eight counts of Interference with Commerce by Robbery and Attempted Interference with Commerce by Robbery in violation of 18 U.S.C. § 1951(a). (Dkt. Nos. 5, 11, 14.) On November 18, 2020, the Court continued Battle's trial from November 30, 2020 to February 16, 2021, due to the ongoing COVID-19 pandemic, and found the elapsed time to be excluded from computing the time within which a trial must commence under the Speedy Trial Act. ("November Continuance," Dkt. No. 24 at 5.)

Battle moved to dismiss the indictment with prejudice for violations of the Speedy Trial Act and Sixth Amendment on January 8, 2021. (See Motion.) The government opposed on January 15, 2021. ("Opposition," Dkt. No. 28.) Battle replied in support of his Motion on January 22, 2021. ("Reply," Dkt. No. 29.)

II. LEGAL STANDARD

Pursuant to the Speedy Trial Act (“STA”), in any criminal case in which a defendant pleads not guilty, the trial must commence within 70 days from the filing of the indictment or from the date the defendant first appears before a judicial officer in connection with the indictment, whichever date occurs last. 18 U.S.C. § 3161(c)(1). “If a defendant’s trial does not begin within the requisite time period and the defendant moves for dismissal prior to trial, the court must dismiss the indictment.” United States v. Messer, 197 F.3d 330, 336 (9th Cir. 1999) (citing 18 U.S.C. § 3162(a)(2)). However, time may be excluded from the 70-day requirement if the reason for the delay meets certain criteria enumerated in 18 U.S.C. § 3161(h). In a motion to dismiss premised upon violations of the Speedy Trial Act, the defendant bears the burden of proving an STA violation. See 18 U.S.C. § 3162(a)(2).

III. DISCUSSION

Battle urges this Court to find that the November Continuance was legally improper, and therefore that his Speedy Trial Act rights have been violated. (Motion at 2.) Battle argues that the November Continuance was wrongly decided because, at the time the November Continuance issued, it was not impossible to hold trial. (Id.)

The November Continuance found that closing the courts due to the COVID-19 pandemic followed the Central District of California’s August 6, 2020 General Order regarding COVID-19, which complied with California Governor Gavin Newsom’s declaration of a public-health emergency and the Center for Disease Control’s best practices. (November Continuance at ¶¶ 6-7). The November Continuance also found that local governments have adopted similar policies; that Riverside and San Bernardino Counties continue to show significant community spread of COVID-19; and that holding a trial would place parties, witnesses, jurors, counsel, and court personnel at unnecessary risk. (Id. ¶¶ 8, 9, 12.) The November Continuance therefore held that a continuance would serve the ends of justice and that good causes existed for a finding of excludable time pursuant to the Speedy Trial Act. (Id. at 5.)

The Court declines to find that the November Continuance was wrongly decided. And absent such a finding, continuing Battle’s trial has not violated his Speedy Trial Act rights. As the government points out, gathering a jury, defendant, witnesses, and counsel in a single room for a trial remains unfeasible in a region with 0.0% ICU bed availability. (Opposition at 6.)

IV. CONCLUSION

For the reasons above, the Court DENIES Defendant’s Motion. The February 5, 2021 hearing is VACATED.

IT IS SO ORDERED.