

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) CRIMINAL ACTION NO.
 v.)
) 3:15cr118-MHT
) (WO)
DERRIS DEANTHONY BRADFORD)

OPINION AND ORDER

This cause is before the court on the joint motion to continue filed by defendant Derris Deanthony Bradford and the government. For the reasons set forth below, the court finds that jury selection and trial, now set for August 31, 2015, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

“In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the

defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

18 U.S.C. § 3161(c)(1).

The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interests of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance would "result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

In this case, the ends of justice served by granting a continuance outweigh the interest of the public and Bradford in a speedy trial. Bradford represents that he is negotiating with the government concerning a possible plea bargain, but that government counsel is not available due to a family emergency.

Moreover, as a result of new evidence that has emerged in the case, the current trial date does not provide enough time for the parties to discuss fully the terms and conditions of any such plea. Given these circumstances, a continuance in this matter is warranted.

Accordingly, it is ORDERED as follows:

(1) The joint motion for continuance (doc. no. 55) is granted.

(2) The jury selection and trial for defendant Derris Deanthony Bradford, now set for August 31, 2015, are reset for January 4, 2016, at 10:00 a.m., at the Federal Courthouse in Opelika, Alabama, 500 South 7th Street, Opelika, Alabama.

DONE, this the 20th day of August, 2015.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE