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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, vs. CONWAY PHILLIPS, JR, Defendant.	Case No.: 2:17-CR-0023TLN STIPULATION AND ORDER CONTINUING STATUS CONFERENCE AND EXCLUDING TIME UNDER THE SPEEDY TRIAL ACT Date: April 29, 2021 Time: 9:30 a.m. Court: Hon. Troy L. Nunley

This matter is presently set for a status conference on April 15, 2021. This Court signed an order substituting Attorney Kelly Babineau as counsel for Conway Phillips, Jr. (ECF Entry 161, July 10, 2020) during the pandemic crisis which has shut down public access to federal courthouses for essentially the past year. The parties continue to work toward a negotiated resolution of the case. Efforts to complete defense investigation as to matters related to potential sentence mitigation have been hampered by state and federal restrictions designed to reduce the spread of the virus during this same period.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The Chief Judge in this district, in response to the threat posed by the pandemic, issued General Orders 612, 617, 618, 620, 624, and 628. These orders collectively restricted public access to federal courthouses from March 18, 2020 to April 5, 2021. California Governor Newsom similarly issued pandemic suppression orders, including Executive Order N-33-20, which have restricted public access to various businesses throughout the state.

This case involves allegations of distribution of cocaine base stemming from an extensive investigation. The investigation included, among other investigative tools, the use of confidential sources, controlled purchases, and the use of a court-authorized wiretap.

The parties to this action, Plaintiff United States of America by and through Assistant United States Attorney Jason Hitt and Attorney Kelly Babineau on behalf of Defendant Conway, stipulate as follows:

1. By this stipulation, Defendants now move to vacate the status conference presently set for April 15, 2021. The parties request to continue the status conference to April 29, 2021, at 9:30 a.m., and to exclude time between April 15, 2021 and April 29, 2021 under Local Code T-4. The United States does not oppose this request.
2. Due to the volume of discovery in the case, including 500 pages of investigative reports and two discs containing additional voluminous recordings of intercepted telephone calls, defense counsel for all defendants are

engaged in ongoing review of the discovery and defense investigation related to potential defenses in this matter.

3. Defense counsel represents and believes that failure to grant additional time as requested would deny each of them the reasonable time necessary for effective preparation, considering the exercise of due diligence.

4. Based on the above-stated facts, the parties jointly request that the Court find that the ends of justice served by continuing the case as requested outweigh the best interest of the public and the Defendants in a trial within the time prescribed by the Speedy Trial Act.

5. For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of February 18, 2021 to April 15, 2021, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), and (B) (iv) [Local Code T-4] because it results from a continuance granted by the Court at Defendants' request on the basis that the ends of justice served by taking such action outweigh the best interest of the public and the Defendants in a speedy trial.

6. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

Assistant U.S. Attorneys Jason Hitt has reviewed this proposed and authorized Kelly Babineau to sign on his behalf.

Respectfully submitted,

Dated: April 13, 2021

By: /s/ *Jason Hitt*
JASON HITT
Assistant United States Attorney

Dated: April 13, 2021

By: */s/ Kelly Babineau*
KELLY BABINEAU
Attorney for Conway Phillips

ORDER

BASED ON THE REPRESENTATIONS AND STIPULATION OF THE PARTIES, it is hereby ordered that the status conference in this matter, scheduled for April 15, 2021, is vacated. A new status conference is scheduled for April 29, 2021, at 9:30 a.m. The Court further finds, based on the representations of the parties and Defendants' request, that the ends of justice served by granting the continuance outweigh the best interests of the public and the defendants in a speedy trial. Time shall be excluded under the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(B)(iv) and Local Code T-4, to allow necessary attorney preparation taking into consideration the exercise of due diligence for the period from April 15, 2021, up to and including April 29, 2021.

IT IS SO ORDERED:

Dated: April 13, 2021

Troy L. Nunley
United States District Judge