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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, vs. DEBORAH LYNN POLLARD, CONWAY PHILLIPS, JR., and ELO WILLIE WADLEY, Defendants.	Case No.: 2:17-CR-023 TLN STIPULATION AND ORDER CONTINUING STATUS CONFERENCE AND EXCLUDING TIME UNDER THE SPEEDY TRIAL ACT Date: August 27, 2020 Time: 9:30 a.m. Court: Hon. Troy L. Nunley

This matter is presently set for a status conference on August 27, 2020. This Court recently signed an order substituting Attorney Kelly Babineau as counsel for Conway Phillips, Jr. (ECF Entry 161, July 10, 2020). The parties continue to work toward a negotiated resolution of the case. Their efforts have been complicated and delayed due to the COVID-19 pandemic. Specifically, efforts to complete defense investigation as to matters related to potential sentence

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mitigation have been hampered by state and federal restrictions designed to reduce the spread of the virus.

The Chief Judge in this district, in response to the threat posed by the pandemic, issued General Orders 612, 617, and 618. These three orders restrict public access to federal courthouses in the district. The first order initially imposed restrictions beginning March 18, 2020. The last order extended the restrictions until further notice. California Governor Newsom initially issued a shelter in place order, Executive Order N-33-20, on March 19, 2020. An easing of those restrictions resulted in a spike in COVID-19 infections. Governor Newsom responded by reversing reopening efforts in various areas of the state, including Sacramento County.

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 Phillips, Jr., Attorney Toni White on behalf of Defendant Deborah Lynn Pollard, and Attorney Todd Leras on behalf of Defendant Elo Willie Wadley, stipulate as follows:

1. By this stipulation, Defendants now move to vacate the status conference presently set for August 27, 2020. The parties request to continue the status conference to November 5, 2020, at 9:30 a.m., and to exclude time between August 27, 2020 and November 5, 2020 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 materials, defense counsel for all defendants are engaged in ongoing review of the discovery and defense investigation related to potential defenses in this matter. This investigation is necessary to ensure that potential defenses are explored and discussed with each defendant in the case.

3. All defense counsel represent and believe 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 August 27, 2020 to November 5, 2020, 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 and all defense counsel have reviewed this proposed

order and authorized Todd Leras to sign it on their behalf.

DATED: August 21, 2020

By /s/ *Todd D. Leras for*
JASON HITT
Assistant United States Attorney

DATED: August 21, 2020

By /s/ *Todd D. Leras for*
KELLY BABINEAU
Attorney for Defendant
CONWAY PHILLIPS, JR.

DATED: August 21, 2020

By /s/ *Todd D. Leras for*
TONI L. WHITE
Attorney for Defendant
DEBORAH POLLARD

DATED: August 21, 2020

By /s/ *Todd D. Leras*
TODD D. LERAS
Attorney for Defendant
ELO WADLEY

ORDER

BASED ON THE REPRESENTATIONS AND STIPULATION OF THE PARTIES, it is hereby ordered that the status conference in this matter, scheduled for August 27, 2020, is vacated. A new status conference is scheduled for November 5, 2020, 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 August 27, 2020, up to and including November 5, 2020.

DATED: August 24, 2020

Troy L. Nunley
United States District Judge