IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	**8:05CR234**
Plaintiff,	)	
	)	
vs.	)	**ORDER**
	)	
DANIEL C. HART,	)	
	)	
Defendant.	)	

This matter is before the court on the motion to continue by defendant Daniel C. Hart (Hart) (Filing No. 22) and the motion of C.G. Jolly and the law firm of Dwyer, Smith, Gardner, Lazer, Pohren, Rogers & Forrest, L.L.P., to withdraw as counsel for Hart (Filing No. 20). Clarence E. Mock, III, has filed an appearance as counsel for Hart (Filing No. 21). Hart seeks a continuance of the trial scheduled for October 31, 2005. Hart has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Hart consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Upon consideration, the motions will be granted.

IT IS ORDERED:

1. Hart's motion to continue trial (Filing No. 22) is granted.

2. Mr. Jolly's motion to withdraw as counsel for Hart (Filing No. 20) is granted as to Mr. Jolly and his law firm.

3. Trial of this matter is re-scheduled for **January 9, 2006,** before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **October 19, 2005 and January 9, 2006,** shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 19th day of October, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge

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