

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

In the matter of

SPEEDY TRIAL ACT PLAN
PURSUANT TO 18 U.S.C. § 3161(a)
and FEDERAL RULE OF
CRIMINAL PROCEDURE 12(c)

**MISCELLANEOUS
GENERAL ORDER 20-26**

The Court has the responsibility to set a trial date under 18 U.S.C. § 3161(a) and the authority to set pretrial motions deadlines under Federal Rule of Criminal Procedure 12(c). The language of both the statute and the rule advise the Court to be “practicable” in setting both dates. Coordination by the Court of setting trial dates and motions deadlines is essential to efficiently managing the trial calendar. This Miscellaneous General Order establishes the District of Alaska’s criminal pretrial and trial setting schedule as follows:

Consultation of Speedy Trial Waiver: At the time of arraignment, or within **two weeks**, defense counsel will meet with the defendant and review the Right to Speedy Trial Act/FSA Acknowledgment & Waiver attached to this Order. After that consultation, but within **two weeks** of arraignment, if the defendant agrees to the waiver, defense counsel will file the signed Right to Speedy Trial Act/FSA Acknowledgment & Waiver with the Court.

No Speedy Trial Waiver: If, after consultation with counsel, the defendant declines to agree to the waiver, and demands trial by jury within 70 days of the filing of the information or indictment, the Court will apply the procedure in the next paragraph.

The defendant may demand trial by jury **70 days** from the initial appearance, as required by Speedy Trial Act. If the defendant makes that demand, the court will set dates according to the following schedule:

Discovery: The exchange of discovery is controlled by the Discovery Plan, which will be issued separately as an addendum to this Speedy Trial Act Plan.

Motions Deadline: Motions deadlines will be set **two weeks** after discovery is provided, absent exceptional circumstances which the Government and the Court could not have foreseen or avoided.

Trial Date: A trial date will be provided by the District Court Judge assigned to the case, in accordance with 18 U.S.C. § 3161(a).

Signed Speedy Trial Waiver: In most cases, the defendant will not demand a trial within 70 days and will sign the Right to Speedy Trial Act/FSA Acknowledgment & Waiver. In most cases, the following will be the standard procedure within the district:

At the time of arraignment, the judicial officer conducting the hearing will set dates according to the following schedule:

Discovery: The exchange of discovery is controlled by the Discovery Plan, which will be issued separately as an addendum to this Speedy Trial Act Plan.

Trial Setting Conference: A trial setting conference will be set approximately **45 days** after arraignment. This 45-day period may be extended for good cause. The conference will be held by the District Court Judge assigned to the case.

The judicial officer at the arraignment will also make appropriate findings of excludable delay under the Speedy Trial Act, 18 U.S.C. § 3161(h). Part of the defendant's election of the standard procedure will include completion of the attached Right to Speedy Trial Act/FSA Acknowledgment & Waiver. In most instances the judicial officer will find that "the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7). The most common reasons for this finding are:

- The "failure to grant such a continuance in the proceeding would ... result in a miscarriage of justice." 18 U.S.C. § 3161(h)(7)(B)(i).
- The "case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section." 18 U.S.C. § 3161(h)(7)(B)(ii).
- The "failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the

attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.” 18 U.S.C. § 3161(h)(7)(B)(iv).

At the Trial Setting Conference, both the prosecutor and defense counsel will provide the Court with the current status of the case, and preparations for trial. Based on that information, the Court will set appropriate motions deadlines and a trial date. The Court will also set a First Pretrial Conference, typically **30 days** before the trial date.

Counsel will be directed to meet and confer approximately **7 days** prior to the First Pretrial Conference. No later than **3 days** prior to the First Pretrial Conference, the parties will file a status report with the following information:

1. Whether the parties anticipate the case proceeding to trial;
2. The length of time needed for trial, expressed in court days; and
3. Whether there remain any issues to be resolved before the start of trial, such as motions in limine or discovery disputes.

DATED this 5th day of August, 2020

/s/ Timothy M. Burgess
Hon. Timothy M. Burgess
Chief United States District Judge

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,
Plaintiff,

vs.

_____,
Defendant.

Case No. _____

**RIGHT TO SPEEDY TRIAL ACT/FSA
ACKNOWLEDGMENT & WAIVER**

I, _____, the above-named Defendant, understand that I have a right to a trial in this matter within seventy (70) days from my arraignment on the indictment/information. I also understand that I can agree to certain exclusions from this 70-day period. In order to allow my attorney a reasonable period of time necessary for effective preparation and representation including: reviewing the discovery and evidence in my case, conducting an independent investigation, researching potential pre-trial motions, evaluating options for pre-trial resolution (plea bargain), and/or preparing for trial in the event a pre-trial resolution does not occur, I agree that an initial exclusion of time should occur between this date and my Trial Setting Conference.

Therefore, I agree that the period from today through the date of my Trial Setting Conference [set approximately forty-five (45) days from now] should be excluded from the seventy (70) day speedy trial calculation. This will allow the United States to provide discovery to my attorney, my attorney to review it and discuss it with me, my attorney to review possible defenses with me, and my attorney to advise me of potential courses of action. This will also permit my attorney to be prepared to advise the court about the status of the case at the Trial Setting Conference at which the Court will address any further possible speedy trial issues.

DATED this _____ day of _____, 2020.

Defendant