

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

WILLIAM LIMPER
Register #54930-066
FDC PHILADELPHIA

**CRIMINAL ACTION
NO. 19-303-1**

MEMORANDUM OPINION

Defendant William Limper, alongside three co-defendants, is charged in a 55-count indictment with conspiracy to commit pharmacy burglary, conspiracy to possess with intent to distribute controlled substances, actual and attempted pharmacy burglary, actual and attempted possession with intent to distribute controlled substances, possession of a firearm in furtherance of a drug trafficking crime, and being a felon in possession of a firearm. The Government moved to continue the trial and designate it a complex case. Defendant opposes this motion. He also moves to dismiss the indictment, alleging a violation of his constitutional and statutory speedy trial rights.

I. FACTS AND PROCEDURAL HISTORY

The FBI arrested defendant William Limper on April 23, 2019, during the execution of a search warrant at his residence in Northeast Philadelphia. During the search, agents found thousands of pharmaceutical pills consisting of controlled substances as well as a loaded, unsecured semiautomatic pistol.

On April 24, 2019, a grand jury returned an indictment charging Limper with one count of possession with intent to distribute a controlled substance (21 U.S.C. § 841(a)) and one count of possessing a firearm in furtherance of a drug trafficking crime (18 U.S.C. § 924(c)). The case

was then assigned for trial to Judge Robert Kelly. On July 10, 2019, Limper filed a motion to continue the trial because a necessary witness was not available on the set trial date and because Defendant's counsel needed additional time to receive and review discovery. The next day, the Court granted the motion, explaining that a continuance served the ends of justice. Trial was set for August 5, 2019.

On August 1, 2019, a grand jury returned a superseding indictment adding two defendants, Raul Rivera and Michael Dombrowski. It contained the following charges: conspiracy to commit pharmacy burglary (18 U.S.C. § 2118(d)), conspiracy to possess with intent to distribute controlled substances (18 U.S.C. § 846), actual and attempted pharmacy burglary (18 U.S.C. § 2118(b)), actual and attempted possession with intent to distribute controlled substances (21 U.S.C. § 841(a)), possession of a firearm in furtherance of a drug trafficking crime (18 U.S.C. § 924(c)), being a felon in possession of a firearm (18 U.S.C. § 922(g)), and aiding and abetting (18 U.S.C. § 2). The next day, the Government moved to continue the trial in light of the superseding indictment and the significant time that would be required for defense counsel to prepare for the new charges. Defendants Rivera and Dombrowski consented to the motion; Limper's position was unknown to the Government, but he filed no objection. On August 5, 2019, the Court, again finding a continuance to serve the ends of justice, granted the motion.

The case was reassigned to this judge on October 15, 2019. On October 22, 2019, co-defendant Rivera moved for a 60-day continuance to allow for further time for discovery and trial preparation. On October 25, the Court granted the continuance until December 23, 2019. On October 31, 2019, the Court vacated its prior order and replaced it with a new order granting the continuance to allow for adequate trial preparation and set trial for January 10, 2020. On

November 7, 2019, a grand jury returned a second superseding indictment, adding a fourth defendant, Robert Hopkins, and adding 33 additional counts of pharmacy burglary and 12 additional counts of attempted pharmacy burglary. Following the second superseding indictment, the Court granted another continuance to allow for adequate preparatory time, setting trial for February 24, 2020.

On December 27, 2019, the Government moved to continue the trial and designate the case as complex, citing the large number of counts and defendants, extensive discovery, and complicated means of executing the charged crimes. Defendants Dombrowski and Hopkins consented to the motion. Limper, however, opposed. On January 8, 2020, Limper also filed a motion to dismiss the indictment, alleging violations of his statutory and constitutional speedy trial rights.

II. DISCUSSION

A. The Constitutional Right to a Speedy Trial

The Sixth Amendment to the Constitution ensures that all criminal defendants “shall enjoy the right to a speedy and public trial.” *See also Smith v. Hooey*, 393 U.S. 374, 383 (1969). Limper argues that the approximately nine-months that have passed from the time of his indictment to the present has violated that right.

The right to a speedy trial is a “necessarily relative” one. *Barker v. Wingo*, 407 U.S. 514, 522 (1972). No bright-line rules denote violations; instead, violations are assessed by conducting a balancing test that weighs the conduct of both the prosecution and the defendant. *Id.* at 530. The Supreme Court set out four factors that must be considered: “Length of delay, the reason for the delay, the defendant’s assertion of his right, and prejudice to the defendant.” *Id.* at 530. But as the Supreme Court has cautioned, these factors are not “talismanic.” *Id.* at 533.

Instead, a violation of the constitutional right to a speedy trial can only be found through a “difficult and sensitive balancing process.” *Id.*

1. Length of delay

Turning to the first factor, the length of delay is “to some extent a triggering mechanism.” *Barker*, 407 U.S. at 530. If the delay is not long enough to be “presumptively prejudicial,” then courts need not inquire into the other factors. *Id.* Delay is measured from the date of “formal accusation, i.e., the earliest date of arrest or indictment until the commencement of trial.” *Hakeem v. Beyer*, 990 F.2d 750, 760 (3d Cir. 1993). Although Limper was not indicted until May 23, 2019, he was arrested on April 23, 2019, and thus that is the date that triggers the beginning of the time period for constitutional speedy trial analysis. Approximately nine months have thus passed since Limper’s arrest.

Length of delay, like all the factors, is not subject to any bright lines. *Hakeem*, 990 F.2d at 755. But the Third Circuit has previously affirmed that a seven-month delay, even in the course of investigating a serious crime, is long enough to trigger review of the remaining factors. *Wells v. Petsock*, 941 F.2d 253, 258 (3d Cir. 1991). *See also Hakeem*, 990 F.2d at 755 (holding that a fourteen-month delay triggers a *Barker* inquiry). The nine-month delay in this case likewise is long enough to warrant looking into the remaining factors.

“[T]he length of the delay is also separately weighed” as part of the *Barker* balancing test. *United States v. Claxton*, 766 F.3d 280, 295 (3d Cir. 2014). Courts have regularly upheld far longer delays. *See Barker*, 407 U.S. at 533 (upholding five-year delay); *Claxton*, 766 F.3d at 295 (upholding nineteen-month delay); *Stukes v. Shovlin*, 464 F.2d 1211, 1215 (3d Cir. 1972) (upholding fourteen-month delay). And a lengthier delay can be more readily tolerated for a “serious, complex conspiracy charge.” *Barker*, 407 U.S. at 530-31. This case involves two

conspiracies and 55 total counts against four defendants. The second superseding indictment describes sophisticated means and extensive surveillance. *See infra* Part III.C (describing the complexity of the crime in further detail). While the nine-month delay in this case is sufficient to trigger a presumption of prejudice and this factor weighs in Defendant’s favor, it is not so long as to make the factor weigh particularly heavily. *See, e.g., Doggett v. United States*, 505 U.S. 647, 657 (1992) (holding that an eight-and-a-half-year delay violated defendant’s speedy trial rights).

2. Reason for delay

The second factor, the reason for delay, is closely tied to the first factor. *Barker*, 407 U.S. at 531. If there are indications that the delay is the result of a deliberate effort by the government to stall trial in order to hamper the defense, that will be “weighted heavily against the government.” *Id.* More “neutral reason[s],” such as negligence or overcrowded courts, are weighed less heavily against the government, but nonetheless should be considered because the “ultimate responsibility for such circumstances” rests with the government, not the defendant. *Id.* Finally, a “valid reason,” such as a missing witness, can serve to justify the delay. *Id.* Other situations too justify delays—such as when the “crime is very serious or complex.” *Wells*, 941 F.2d at 257.

The first continuance in this case was granted at Defendant’s request, on the grounds that his counsel needed more time for reviewing discovery and a necessary witness was not available on the scheduled trial date. ECF No. 13. An unavailable witness is a valid reason for delay. *See Barker*, 407 U.S. at 531. And importantly, this delay was of Defendant’s own choosing. “When the reason for the delay originates with the defendant or his counsel, such delay will not be considered for purposes of determining whether the defendant’s right to a speedy trial has been infringed.” *Wells*, 941 F.2d at 258.

The next cited reason for delay occurred when the Government filed a continuance motion the day after it filed a superseding indictment that added two defendants and charged Defendant with six new counts related to pharmacy burglary four days before trial was set to start. ECF No. 22. The government can file superseding indictments without running afoul of a defendant's speedy trial rights. *United States v. Battis*, 589 F.3d 673, 679 n.5 (3d Cir. 2009). The relevant time period, however, still begins at the date of the first arrest or indictment. *Id.* The need to prepare for "serious or complex" charges is a valid reason for delay. *Wells*, 941 F.2d at 258. As the Court determined in the order, defendants' counsel needed additional time to prepare for the new counts and review the extensive new discovery the government just provided. The superseding indictment meaningfully changed the nature of the case, forming a proper basis for continuing the trial.

The next motion for a continuance came not from the Government, but from co-defendant Rivera. ECF No. 32. In the motion, Rivera's lawyer requested the continuance on the grounds that he had not received discovery and needed further time to prepare for trial. While under certain circumstances, the government's failure to promptly respond to discovery requests may be attributed to the government's negligence, *see, e.g., United States v. Dreyer*, 533 F.2d 112, 117 (3d Cir. 1976), this scenario is considered "neutral" when factored into the delay analysis. *Barker*, 407 U.S. at 531. Thus, even if the Government has been unduly slow in turning over discovery, this reason does not weigh heavily in Defendant's favor.

The final continuance occurred after the return of a second superseding indictment, adding a fourth defendant and additional charges related to pharmacy burglary against Limper. Defendant's counsel filed an epistolary request to continue the trial due to a preexisting conflict with the scheduled trial date. ECF No. 38. Both Defendant Limper and the Government

consented to the request. This continuance from the defense thus does not support a speedy trial violation. *Claxton*, 766 F.3d at 295. Further, as the Government explains, the superseding indictment significantly complicated the case. It contains two counts of conspiracy charging 271 overt acts. Those overt acts include 26 pharmacy burglaries and 13 attempted pharmacy burglaries over a four-and-a-half-year period. The investigation involved both the Federal Bureau of Investigation and the Philadelphia Police, as well as dozens of local law enforcement agencies. The crimes alleged are both very serious and very complex. *Wells*, 941 F.2d at 257. The second superseding indictment thus further justified a continuance.

Defendant has pointed the court to no evidence of negligent or deliberate attempts to delay the trial by the government. Instead, he argues only that the length of and reason for the delay is attributable to the “government’s efforts to charge the defendant with additional crimes.” But the Government is permitted to conduct further investigation and file a superseding indictment. *See, e.g., United States v. Fisher*, 871 F.2d 444, 451 n.7 (3d Cir. 1989 (explaining that the government may obtain a superseding indictment any time prior to trial); *United States v. Hoffman*, 148 F. App’x 122, 130 (3d Cir. 2005) (noting that the “District Court recognized that the second superseding indictment was delayed due to the need to conduct further investigation, not to gain an improper tactical advantage or to prejudice”). Defendant does not allege that the Government filed either of the superseding indictments in this case for any improper reason. Most of the continuances in this case were requested by Defendant Limper himself or his co-defendants. The remaining extensions requested by the government appear to reflect a valid interest in ensuring counsel had sufficient time to prepare for trial as the case become more complicated than initially anticipated.

3. Defendant's assertion of his rights

The third factor to consider is whether and how a defendant asserted his right to speedy trial throughout the progression of the case. As the Supreme Court has acknowledged, the degree to which a defendant expresses this right “will be affected by the length of the delay, to some extent by the reason for the delay, and most particularly by the personal prejudice, which is not always readily identifiable.” *Barker*, 407 U.S. at 531. Although delay in asserting the constitutional right to a speedy trial does not constitute a waiver, *id.* at 528, failure to assert it will make it more difficult for Defendant to prove he was denied a speedy trial. *Hakeem*, 990 F.2d at 764. And even when a defendant has raised speedy trial concerns, if “through contrary actions, a defendant evidences an unwillingness to commence with the trial requested, the request carries minimal weight.” *Id.* at 765.

This is the first time Defendant has raised a speedy trial concern. Defendant's counsel twice requested a continuance, indicating an unwillingness to proceed to trial at the scheduled time. And Defendant failed to object to any of the other motions for a continuance prior to the one at issue in this case. Up until this point, Defendant has not demonstrated concern over his speedy trial rights, nor has he shown concern over the continuances that have been granted.

4. Prejudice

The fourth and final factor, prejudice, is the most important one. *Hakeem*, 990 F.2d at 760. Prejudice is assessed in light of the interests of a defendant that the speedy trial right was designed to protect. *Barker*, 407 U.S. at 532. The primary three interests are: preventing oppressive pretrial incarceration; minimizing anxiety and concern of the accused; and limiting the possibility that the defense will be impaired by the delay. *Id.* The burden of proving prejudice lies with the defendant. *Hakeem*, 990 F.2d at 760.

Defendant asserts that he has “suffered great anxiety, depression and hardship due to his continued incarceration.” He additionally claims he was hospitalized for several days due to seizures while incarcerated. However, Defendant does not present any causal connection between his seizures and his incarceration, nor does he attempt to explain how incarceration in some manner worsened the seizures. Defendant also does not provide any details about the type of anxiety and hardship he faces as a result of incarceration. “Vague allegations of anxiety are insufficient to state a cognizable claim.” *Hakeem*, 990 F.2d at 762. Defendant makes no claim that the delay has hampered his ability to call witnesses, present evidence, or otherwise put on his case—indeed, based on the fact that Defendant’s counsel himself twice requested a continuance, it appears the delays were calculated to *help* Defendant put on his case. And pretrial incarceration for lengths longer than Defendant’s have regularly been upheld. *See Barker*, 407 U.S. at 533 (upholding five-year delay); *Claxton*, 766 F.3d at 295 (upholding nineteen-month delay); *Stukes*, 464 F.2d at 1215 (upholding fourteen-month delay). This is not to discount the seriousness of being incarcerated for nine months and counting awaiting trial, nor does it discount the anxiety Defendant may be experiencing at this time. But such concerns do not arise to prejudice as defined in constitutional speedy trial case law.

In sum, the first factor, length of delay, weighs only lightly in Defendant’s favor. Factor two, the reason for delay, even if an assumption is made that some of the delay may be attributed to the government’s slow production of discovery, weighs against Defendant. The third factor, Defendant’s assertion of rights, weighs against Defendant. And the fourth and most important factor, prejudice, likewise weighs against him. Defendant has not alleged a violation of his constitutional right to a speedy trial.

B. The Speedy Trial Act

A defendant's right to a speedy trial also finds statutory protection. 18 U.S.C. § 3161. Defendant Limper alleges his statutory rights were violated. The Speedy Trial Act (STA) is analyzed differently from the constitutional claim. The STA generally requires a trial to begin within 70 days of the filing of an indictment or the defendant's initial appearance before a judicial officer, whichever is later. 18 U.S.C. § 3161(c)(1). That means the STA clock started in Defendant's case when the first indictment was filed on May 23, 2019. The days of the indictment and arraignment are excluded from the 70-day timeline. *United States v. Lattany*, 982 F.2d 866, 872 (3d Cir. 1992).

Numerous other situations can also result in excluding days from the calculation as to whether trial began within 70 days of the indictment. 18 U.S.C. § 3161(h). For example, the pendency of a pretrial motion tolls the speedy trial clock until the judge decides the motion. *Id.* § 3161(h)(1)(F); *Henderson v. United States*, 476 U.S. 321, 327-29 (1986). Most relevant to this case, the court excludes any

period of delay resulting from a continuance granted by any judge on [her] own motion or at the request of the defendant or his counsel or at the request of the attorney for the government, if the judge granted such continuance on the basis of [her] findings 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)(A). Factors judges are instructed to consider in granting an "ends of justice" continuance include whether "the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice," and whether "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.” *Id.* § 3161(h)(7)(B).

Before granting an ends of justice continuance, therefore, the court must set forth its reasons for granting the motion. *United States v. Rivera Const. Co.*, 863 F.2d 293, 295 (3d Cir. 1988). But it is not necessary to “articulate facts which are obvious and are set forth in the motion for the continuance itself.” *Lattany*, 982 F.2d at 879. The ends of justice exclusion was designed to give district courts “flexibility in accommodating unusual, complex, and difficult cases.” *Zedner v. United States*, 547 U.S. 489, 508 (2006). *See also Lattany*, 982 F.2d at 883 (upholding an open-ended continuance under the STA).

Plaintiff was indicted on May 23, 2019, and arraigned on June 4, 2019. No motions were filed in the case until July 10, 2019. Excluding the days of the indictment and arraignment, 45 STA days passed. The clock was then stopped upon the filing of the July 10 motion. 18 U.S.C. § 3161(h)(1)(F); *Henderson*, 476 U.S. at 327-29. The motion was filed by Defendant and requested a continuance on the grounds that a necessary witness was not available on the set trial date and Defendant’s counsel needed additional time to receive and review discovery. Proceeding to trial when a necessary witness is unavailable would result in a miscarriage of justice. This continuance was thus adequately justified under the ends of justice exception, as articulated in the motion and the Court’s order. Trial was set for August 5, 2019.

On August 2, 2019, before the first continuance ran, the Government filed a motion to continue the trial. The court granted the continuance as justified by the ends of justice, in light of the superseding indictment filed the day prior, which added two defendants and numerous new, significantly more complicated charges. Like with the constitutional right, the government can file a superseding indictment without running afoul of the STA. *United States v. Komolafe*, 246 F. App’x 806, 809 (3d Cir. 2007). More time was thus needed to allow all defendants’ counsel

to prepare. The order stated that a new scheduling order would follow. Four days later, the Court issued a notice setting trial for November 12, 2019.

On October 22, 2019, well before the continuance ran, co-defendant Rivera moved for a 60-day continuance to allow for further time for discovery and trial preparation, noting that he had not yet received adequate discovery. Any exclusion that applies to one of his co-defendants also applies to Defendant. *Claxton*, 766 F.3d at 730. On October 25, the Court granted the continuance as necessary to prevent a miscarriage of justice and set trial for December 23, 2019. On October 31, 2019, the Court vacated its prior order and re-granted a continuance to allow for adequate trial preparation and set trial for January 10, 2020. The motions and orders thus again justify a continuance as necessary to fulfill the ends of justice.

On November 14, 2019, again within the continuance period, the Court granted a continuance until February 24, 2020, citing the need to afford adequate time for trial preparation and review of discovery. This continuance followed just a week after a second superseding indictment was filed, which added a fourth defendant and many more charges against Limper. Significant amounts of new discovery were to accompany the superseding indictment. Additionally, this continuance was granted following an epistolary request from Defendant Limper's counsel, which both Defendant and the Government consented to, to continue the case because counsel had a conflict with the set trial date. If Defendant's counsel was unable to attend and represent Defendant at trial, that would result in a miscarriage of justice. This continuance too was granted in the ends of justice and is thus properly excludable.¹

All of the continuances granted in this case reflect a combination of the defendants' need

¹ The Government's December 27, 2019 continuance will be addressed below. *See infra* Part III.C.

for additional preparation time and the growing complexity of the case.² Although this case started with just one count of drug possession and one count of firearm possession, it has grown into a four-defendant, 55-count conspiracy and pharmacy burglary case. As expressed in the motions and the Court's orders, the continuances served the ends of justice in ensuring adequate preparation time for a complex, serious case. *See Zedner*, 547 U.S. at 508. Defendant did not provide the court with his own estimation of how many non-excludable days have passed, and neither did the government. But by the Court's count and pursuant to the United States District Court's Speedy Trial Validation Report, the only days which cannot be excluded are the 45 that passed from the filing of the indictment to the first continuance motion. This case is thus well within the STA's 70-day requirement.

C. Complex case designation

The final issue before the court is the government's December 27, 2019 motion to designate this case as complex and continue the trial again. A case is complex when, "due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law ... 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).

Although his co-defendants consented to the continuance, Defendant Limper objected. He argues that this is a "straightforward burglary and drug distribution case." The 101-page, 55-count second superseding indictment, however, tells a different story. The indictment alleges that the four defendants conspired to rob 36 pharmacies and attempted to rob 13 additional ones

² Although the Court's previous orders granting continuances did not go into the same amount of depth as the present opinion, the orders, combined with the motions, adequately described why the ends of justice justified the continuance. *See Lattany*, 982 F.2d at 879. Further, so long as the court grants the continuance within the 70-day period, it is permitted to more "fully articulate its reasons" for the continuance even after the STA time would have otherwise passed. *Id.*

over the course of four and a half years. Additionally, the indictment describes a scheme that was carefully planned, using complex tools, multiple cars, and various hiding places. Tracking devices pursuant to search warrants were placed on the defendants' vehicles and pole cameras were set up outside Defendant's residence to surveil him.

Procedurally, this case is not likely to be simple either. Numerous search warrants were executed, potentially giving rise to significant pre-trial motion practice. Additionally, the Government has already provided 17 gigabytes of electronic discovery, including all of the police reports for the charged burglaries and attempted burglaries, video surveillance evidence of most of the charged burglaries, video still photographs of some of the burglaries in progress, hundreds of photographs of evidence taken during search warrants executed on Defendant's residence and three garages that operated as stash locations, DNA laboratory reports, Drug Enforcement Agency (DEA) inventory loss reports of 36 pharmacies that were burglarized, DEA laboratory reports analyzing thousands of pills seized from Defendant's residence, and other documents. The Government also expects to turn over at least five gigabytes more of discovery.

This prosecution is thus complex, and in order to ensure that there is no miscarriage of justice not just to Defendant Limper, but also his co-defendants who consented to the Government's motion, a continuance is warranted in this case.

III. CONCLUSION

For the foregoing reasons, Defendant's motion to dismiss the indictment shall be denied. The Government's motion to continue the case shall be granted. An appropriate order follows.

January 29, 2020

BY THE COURT:

/S/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.

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ORDER

AND NOW, this 29th day of January, 2020, upon consideration of Defendant William Limper's Motion to Dismiss the indictment (ECF No. 45) and the Government's Response in Opposition (ECF No. 47), **IT IS ORDERED** that Defendant's Motion is **DENIED**. Upon consideration of the Government's Motion for a Speedy Trial Continuance (ECF No. 43) and Defendant's Response in Opposition (ECF No. 44), this Court finds as follows:

1. This case is so unusual and complex, because of the number of defendants, the nature of the prosecution, the large number of witnesses, the multiple jurisdictions wherein offenses are alleged, and the volume of discovery materials, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial within the time limits established by the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(7)(B)(ii).
2. This Court has determined that this case is unusual and complex for the following reasons:
 - a. The second superseding indictment in this matter charges four defendants in a total of 55 counts, including the offenses of conspiracy to commit pharmacy burglary and conspiracy to possess with intent to distribute controlled substances,

that each consists of 271 overt acts and at least six coconspirators, 36 counts of pharmacy burglary, 13 counts of attempted pharmacy burglary, one count of attempted possession with intent to distribute controlled substances, one count of possession with intent to distribute controlled substances, one count of possession of firearm in furtherance of a drug trafficking crime, and one count of being a felon in possession of a firearm and ammunition, from on or about November 16, 2014, to on or about April 19, 2019, in the Eastern District of Pennsylvania.

b. The evidence and discovery in this case is voluminous, as it concerns the burglaries and attempted burglaries of 49 pharmacies since November 2014 and includes a large number of documents and reports from multiple local, state, and federal law enforcement agencies within the Eastern District of Pennsylvania.

c. The evidence will include numerous statements from defendants, eyewitnesses, victims, and coconspirators.

d. The evidence will also include physical evidence obtained from the execution of search warrants, as well as seizures at the time of the arrests of some of the defendants. There are also numerous grand jury transcripts, financial and business records, telephone records, and video surveillance of the defendants during the conspiracy and during almost all of the pharmacy burglaries and attempted burglaries charged in the second superseding indictment.

e. Given the complexity of this case, the pretrial motions may be extensive and likely will require protracted pretrial litigation.

3. The ends of justice served by this continuance outweigh the best interests of the public and the defendants in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

4. The failure to grant a continuance will likely result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

5. This continuance is not being granted because of general congestion of the Court's calendar, or lack of diligent preparation or failure to obtain witnesses on the part of the Government's attorneys. *See* 18 U.S.C. § 3161(h)(7)(C).

THEREFORE, IT IS ORDERED

(1) Pursuant to 18 U.S.C. § 3161(h)(7)(A), (B)(i), and (B)(ii), the Government's Motion is **GRANTED**; the captioned case is continued beyond the time established by the Speedy Trial Act and that the delay resulting from this continuance shall be excluded from speedy trial calculations because the ends of justice served by such continuance outweigh the best interests of the public and the defendants in a speedy trial; and, because it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial within the time limits established by the Speedy Trial Act.

(2) The Court will enter a scheduling order that will address discovery and motion deadlines.

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.