

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	Criminal No. 16-334(1) (JNE/KMM)
)	
Plaintiff,)	
)	MOTION TO DESIGNATE CASE
v.)	AS COMPLEX UNDER SPEEDY
)	TRIAL ACT
PAUL R. HANSMEIER,)	
)	
Defendant.)	

Paul R. Hansmeier, through counsel, moves that this Court designate this case as complex for pretrial time exclusions pursuant to the Speedy Trial Act. We ask that an alternate schedule be set for the pretrial and trial procedures be established, outside of the timelines dictated by the Speedy Trial Act and Local Rule 12.1. The prosecution objects to neither the complex case designation, nor the establishment of an extended timeline, nor the proposed timeline outlined below. A modest disagreement remains on the subject of separating a legal challenge to the indictment from the other pretrial motions proceedings, in the overall process of pretrial litigation.

BACKGROUND

On December 14, 2016, a Grand Jury returned an 18 count Indictment against the defendant. The Indictment charges the defendant with: 1 count of Conspiracy to Commit Mail Fraud and Wire Fraud, in violation of 18 U.S.C. § 1349; 5 counts of Mail Fraud, in violation of U.S.C § 1341; 10 counts of Wire Fraud in violation of 18

U.S.C § 1343; 1 count of Conspiracy to Commit Money Laundering in violation of 18 U.S.C. § 1956(h); and 1 count of Conspiracy to Commit and Suborn Perjury, in violation of 18 U.S.C. § 371. The Indictment charges that the defendant and co-defendant orchestrated an elaborate scheme to obtain millions of dollars in fraudulent copyright lawsuit settlements by deceiving state and federal courts throughout the country.

ALLEGATIONS

The Indictment includes the following allegations:

The defendant and co-defendant used sham entities to obtain copyrights to pornographic movies, and uploaded those movies to file-sharing websites in order to lure people to download the movies. The defendants then procured the identities of the people who viewed the uploaded movies by obtaining subpoenas from the courts and serving the subpoenas on internet service providers for subscriber information associated with the IP addresses used to download their pornographic movies. The defendants extorted the subscribers by threatening them with financial penalties and public embarrassment unless they agreed to pay a settlement for the alleged copyright infringements.

When the courts restricted the defendants' ability to sue multiple individuals in the same lawsuit, the Indictment charges that the defendants filed false lawsuits alleging that computer systems belonging to their sham clients had been "hacked",

and then recruited ruse defendants against whom they brought these false “hacking” lawsuits.

SPEEDY TRIAL ACT

The Court may properly exclude certain periods of delay in computing the time within which trial must commence under the Speedy Trial Act. Specifically, under Title 18, United States Code, Section 3161(h)(7)(A), the Court may exclude a period of time from the speedy trial period where it finds that “the ends of justice served by taking such action outweigh the best interests of the public and the defendant in a speedy trial.” *See* 18 U.S.C. § 3161(h)(7)(A). A continuance may be granted “by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the government.” *Id.* In considering whether to grant a continuance requested under such provision, one of the factors which the Court shall consider is:

Whether the case is so unusual or 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.

See 18 U.S.C. § 3161(h)(7)(B)(ii).

COMPLEX CASE

This case is “complex” within the meaning of the above statute, warranting a continuance of the pretrial proceedings and trial. The discovery

is voluminous, containing 9 GB of material. This includes over 28,000 pages of reports and other evidence.

For these reasons, it is unreasonable to expect the government and the defendant to prepare adequately for pretrial proceedings and trial within the short time limits established by the Speedy Trial Act. A reasonable continuance is appropriate pursuant to the Title 18, United States Code, Section 3161(h)(7)(A). Joined by the prosecution, we seek an order that any continuances granted pursuant to this request will constitute excludable delay for purposes of all relevant time limits established by the Speedy Trial Act, because the ends of justice served by such a continuance outweighs the best interests of the defendant and the public in a speedy trial.

PROPOSED SCHEDULE

The indictment in this case reveals its unusual nature. In neutral terms, the allegations outlined above, and the heart of the government's principal charges, exist at the edges of established precedent. For this reason, litigation addressing the legality of the indictment's main charges should take precedence. This first round of proceedings has the potential of being dispositive, at least of the indictment's core allegations. We ask to be allowed until March 15, 2017 to submit briefing on any legal challenges to the indictment itself. We have no objection to allowing the prosecution a reasonable amount of time to respond, and would request the opportunity to reply.

Concerning the remaining pretrial motions, we ask to have until April 24, 2017, to file them. Finally, we ask for the trial date to be set after the litigation on dispositive and non-dispositive motions has been completed.

The prosecution does not object to the requested extensions, only to the notion that the pretrial motions be bifurcated to address the legal challenges to the indictment first. From the defense perspective, addressing the legal concerns first is the most efficient and resource-conscious way of proceeding through the complications of this unusual case.

CONCLUSION

Without objection, we request that the Court designate this matter as complex and as such that it extend the dates and deadlines pertaining to disclosures, motions, responses and hearings originally ordered by the Court. Without objection, we further request that the Court make a finding that ends of justice served by this continuance outweighs the best interests of the defendant and public in a speedy trial and make a finding that the time period between Mr. Hansmeier's arraignment and the appointment of undersigned counsel and the date for the filing of pretrial motions constitutes excludable delay for purposes of all relevant time limits established by the Speedy Trial Act. Finally, we ask that the Court set a schedule for pretrial proceedings consistent with that outlined above.

Dated: February 14, 2017

Respectfully submitted,

s/ Andrew H. Mohring

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