

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	No. 09 CR 849
	)	09 GJ 878
v.	)	
	)	
TAHAWWUR HUSSAIN RANA	)	Chief Judge James F. Holderman
	)	

**GOVERNMENT'S FIRST MOTION FOR AN EXTENSION OF TIME TO RETURN  
INDICTMENT PURSUANT TO 18 U.S.C. § 3161(h)**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully moves this Court, pursuant to 18 U.S.C. § 3161(h)(8), for a 58-day extension of time, to and including Thursday, January 14, 2010, in which to seek the return of an indictment against the defendant, for the following reasons:

1. Defendant was arrested on October 18, 2009, and charged by complaint with conspiracy to provide material support to a conspiracy to murder or maim overseas, in violation of Title 18, United States Code, Section 2339A. On October 29, 2009, the government filed an amended complaint, charging defendant with two counts of violations under Title 18, United States Code, Section 2339A. The defendant remains in custody, and a continued detention hearing is scheduled for November 19, 2009, before Magistrate Judge Nan R. Nolan. The defendant's counsel has indicated to the government that he objects to this motion.

2. As outlined in the affidavit in support of the amended criminal complaint, this investigation included the interception of numerous telephone and email communications, many of which were in a foreign language. Further, this investigation is related to 09 CR 830, a case in which David Headley was arrested on October 3, 2009, for participating in, and providing material support to, the same conspiracy to which Rana was charged with having provided material support.

On October 30, 2009, this Court granted the government's unopposed motion with respect to defendant Headley, extending the time in which the government must seek an indictment against Headley until and including January 1, 2010.

3. On October 18, 2009, federal agents executed four search warrants at four separate locations, and, among other items of evidence, seized a number of computers. Agents are diligently examining the evidence, including that contained in the seized computers. Details concerning the investigation and the volume and types of evidence recovered during this investigation are stated in the Attachment hereto, which the government respectfully requests be placed under seal. The government is requesting that this Attachment be sealed so as not to compromise the continuing investigation. Additionally, further investigation regarding the full scope of the two defendants' activities is ongoing and includes gaining assistance from foreign authorities.

4. Given the nature of the investigation, including the time required to examine the evidence collected during execution of the search warrants, analysis and translation of the intercepted communications, coordination with foreign authorities, and the additional reasons stated in the government's sealed Attachment, the 30 days available to the government pursuant to Title 18, United States Code, Section 3161(b) in which to file an indictment or information against a defendant will not be sufficient. The United States estimates that a 58-day extension from the current expiration date, to and including Thursday, January 14, 2010, will be sufficient time within which to return an indictment in this matter.

5. The government anticipates that the grand jury will not be sitting the last two weeks of December 2009. Further, because the particular grand jury sits on a Thursday, the government is requesting 58 days such that the period expires on a day when the grand jury sits.

6. Among the factors identified by Congress as relevant to the determination whether time should be extended for indictment are those set forth in 18 U.S.C. § 3161(h)(8)(B), which provide in relevant part:

Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because . . . the facts upon which the grand jury must base its determination are unusual or complex; [and]

Whether the failure to grant such continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), . . . would deny counsel for . . . the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

18 U.S.C. §§ 3161(h)(8)(B)(ii), (iv).

7. The government respectfully submits that the 58-day continuance is warranted in this case pursuant to the foregoing provisions. The government has been conducting a diligent and thorough investigation in this case, but cannot complete its investigation and appropriately conclude the investigation within the time allowed under Section 3161(b) of the Speedy Trial Act as currently extended.

8. The government has begun the process of providing discovery to defendant's counsel, which will allow counsel to begin the discovery review process without delay.

WHEREFORE, the United States respectfully requests a 58-day extension of time to and including Thursday, January 14, 2010 in which to seek an indictment in this case.

Respectfully submitted,

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Dated: November 13, 2009