

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

EDWARD M. BURKE

No. 19 CR 1

Ruben Castillo
Chief Judge

MOTION FOR EXTENSION OF TIME TO INDICT

The UNITED STATES OF AMERICA, by its attorney, JOHN R. LAUSCH, JR., United States Attorney for the Northern District of Illinois, respectfully moves this Court, pursuant to 18 U.S.C. § 3161(h)(7)(A)-(B), for a 90-day extension of time, to and including May 3, 2019, in which to seek the return of an indictment against the defendant, for the following reasons:

1. On January 2, 2019, the government charged defendant EDWARD M. BURKE in criminal complaint number 19 CR 1. The complaint charges the defendant with attempted extortion, induced by the wrongful use of actual and threatened fear of economic harm, and under color of official right, in violation of Title 18, United States Code, Section 1951. *See* Docket No. 1.

2. The defendant self-surrendered on January 3, 2019, and appeared before Magistrate Judge Sheila Finnegan that same day for an initial appearance. Docket No. 9. At the initial appearance, defendant was ordered released on bond, and defendant remains on bond. *Id.* The defendant has agreed to waive his right to a preliminary hearing in exchange for accelerated and early discovery.

3. The Speedy Trial Act requires that an indictment or information be filed within 30 days of the date on which the defendant was arrested or served with a summons in connection with the charges. *See* 18 U.S.C. § 3161(b). Accordingly, the deadline for the filing of an indictment or information is presently February 2, 2019.

4. Time may be excluded from the computation of this thirty-day period if a judge grants a motion for a continuance made by the government upon finding that the ends of justice served by granting the continuance outweigh the best interest of the defendant and public in a speedy trial. *Id.* § 3161(h)(7)(A); *see also United States v. Adams*, 625 F.3d 371, 378–79 (7th Cir. 2010). 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)(7)(B)(ii), (iii), and (iv), which provide in relevant part:

(ii) 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.

(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.

(iv) Whether 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 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.

5. The government respectfully submits that a 90-day continuance is warranted pursuant to the forgoing provisions. The government is conducting a diligent and thorough investigation into this case, but certain factors have led to this request for an extension. These factors include the complex nature of this public corruption case, and the fact that the investigation is ongoing. Thus, due to the complex nature of this investigation, the government cannot appropriately and conclude the investigation within the time allowed under Section 3161(b) of the Speedy Trial Act. Because this is a case in which arrest or service of a summons preceded indictment, and for the reasons set forth above, it is unreasonable to expect return and filing of the indictment within the time allowed under Section 3161(b) of the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(7)(B)(ii) - (iv).

6. This motion is not brought for the purpose of delay, and the government will continue to give due diligence and priority to concluding its investigation within the additional time sought by this motion.

WHEREFORE, the United States respectfully requests a 90-day extension of time to and including May 3, 2019, in which to seek an indictment in this case.

Dated: January 14, 2019

Respectfully submitted.

JOHN R. LAUSCH, JR.
United States Attorney

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