

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JIMMIE ANTHONY BEARD,

Defendant.

CRIMINAL ACTION NO.

1:20-CR-00351

Defendant Jim Beard's Motion to Continue Trial

Jim Beard, through the undersigned counsel, respectfully moves for a 90 day continuance of trial. In support of this motion, Mr. Beard shows as follows:

Factual Background

1. On September 15, 2020, a grand jury in the Northern District of Georgia returned an eight-count indictment against Mr. Beard. (Doc. 1).
2. Trial is currently scheduled to begin on February 12, 2024. (Doc. 104.)
3. On June 6, 2023, a little over 2 months before trial was scheduled to commence, the government informed undersigned counsel that they had 9 million additional pages of discovery that could be reviewed under the supervision of the FBI at the FBI's office in Atlanta.

4. On June 29, 2023, based on the government's late disclosure of over 9 million pages of discovery, Mr. Beard filed a Motion to Continue the Trial and to Compel Identification of Brady Material (Doc. 95). The Court held a hearing on that motion on July 13, 2023. (Doc. 108). During that hearing, undersigned counsel inquired about the possibility of receiving funding to hire a discovery attorney, citing the issues experienced with the government's technology and production. The Court allowed Mr. Beard to ask for CJA funds by proper motion. The government also agreed during this hearing that it would produce the relevant discovery on a drive.
5. Undersigned counsel could not file a motion for a discovery attorney until receiving the government's production, which did not happen until August 22, 2023. As soon as undersigned counsel received this production, it was forwarded to Mr. Aoki, the discovery attorney, to begin processing.
6. Mr. Aoki received the production on August 25, 2023, and that same day began uploading it, sandboxing it, and scanning it for viruses and other security threats before loading it onto their servers. The drive contained a total of 11,184,314 files. It took approximately 32 days to complete the scan.

7. Once the scanning was complete, undersigned counsel was able to prepare a funding request based on Mr. Aoki's estimation of what the work would involve.
8. On November 7, 2023, Mr. Beard filed a Motion to Appoint a Discovery Technology Assistant (Doc. 115). That motion was granted on November 8, 2023. (Doc. 116).
9. Immediately following this Court's Order, Mr. Aoki and his team promptly initiated efforts to upload the vast volume of discovery materials; however, they encountered significant challenges due to the sheer size of the production, and the production methodology employed by the government. Consequently, full upload into the database, let alone readiness for review, is not expected until mid-to-late December 2023.
10. Furthermore, the government has continued to produce discovery incrementally, with the latest production occurring just last week.
11. Moreover, on December 5, the government, for the first time, disclosed its intention to seek a superseding indictment indicating some dates would be changed, potentially expanding the universe of documents relevant to the altered counts.
12. Undersigned has discussed these issues with the government and

attempted to obtain the government's consent to this motion, but the government declined, thereby necessitating this motion.

Argument

1. As with any criminal defendant facing serious felony charges and years of potential incarceration, Mr. Beard has a constitutional guarantee of due process, which includes a fair trial. See, e.g., *Norris v. United States*, 820 F.3d 1261 (11th Cir. 2016). A fair trial requires the defendant to have sufficient time to review discovery.
2. In the present case, the defense team has been working diligently to prepare a comprehensive defense strategy for Mr. Beard; however, counsel for Mr. Beard simply cannot process – let alone review – millions of pages of discovery in less than 70 days.
3. Simply put, Mr. Beard and his counsel must be able to review this newly produced discovery to develop a robust defense strategy, identify pertinent information, and prepare for trial effectively.
4. As shown above, undersigned counsel has been diligent and acted without delay throughout the entire process.
5. Accordingly, Mr. Beard requests a 90-day continuance of the trial to process and review discovery.

[signatures on following page]

Submitted on December 6, 2023.

/s/ Scott R. Grubman

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CERTIFICATE OF SERVICE AND COMPLIANCE

The undersigned attorney hereby certifies that the foregoing document, which was prepared in accordance with L.R. 7.1, using Book Antiqua, 13-point font, was filed using the Court's CM/ECF portal, which will automatically send service copies to all counsel of record.

So certified, today, December 6, 2023.

/s/ Scott R. Grubman
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Ga. Bar No. 317011