

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

LAWRENCE K. BAERMAN, CLERK
ALBANY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Criminal Action No. 09-M-259 (DRH)

v.

(Hon. David R. Homer)

MELISSA GIOVE,

ERIC CANORI

STIPULATION AND ORDER
FOR ENLARGEMENT OF TIME

Defendants.

STIPULATION

It is hereby stipulated and agreed, by and between the defendants, MELISSA GIOVE (by Timothy Austin, Esq.) and ERIC CANORI (by John Coseo, Esq.) and Andrew T. Baxter, United States Attorney for the Northern District of New York (by Richard Belliss, Assistant United States Attorney), that the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), be enlarged to and including thirty (30) days from the date of the signing of this Order, and that such time be excluded, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), from the computation of the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b). The parties further stipulate to a thirty (30) day continuance of the Preliminary Hearing from its currently scheduled hearing date

of June 30, 2009.

1. The chronology of this case is as follows:

- a. Date of complaint: June 17, 2009
- b. Date of initial appearance: June 17, 2009
- c. Defendant custody status: Defendant Canori was released on bail and conditions on June 18, 2009; Defendant Giove has been authorized to be released on bail and conditions

- i. Date United States moved for detention: June 17, 2009

- ii. Date of detention hearing: June 18, 2009

- iii. Date detention decision issued: June 18, 2009

- d. Prior enlargements of time and exclusions under the Speedy Trial Act: None

2. The United States and the defendants have requested the continuance based on the following facts and circumstances:

- a. The defendants were arrested on June 17, 2009 in connection with a fast moving, multi-state investigation of individuals alleged to have conspired to possess with the intent to distribute, and to distribute, marijuana in excess of 100kg. Also on June 17, 2009, a search warrant was executed at Defendant Canori's residence and marijuana, U.S. currency and various electronic items such as cell phones and a computer were seized. The returns of the search warrants are not yet complete, nor is any forensic analysis on the electronic items.

- b. Due to the rapid progression of events, the defense attorneys have had little time to consult on substantive matters with their clients, and have had little time to review the limited amount of discoverable evidence provided by the government.

3. The parties stipulate and agree that the ends of justice served by granting this

continuance outweigh the best interests of the public and the defendants in a speedy trial. The nature of the investigation, its complexity, and the need for additional time for the defense attorneys to consult with their clients and review evidence make it unreasonable to expect the defense to be prepared to conduct a preliminary hearing on June 30, 2009, taking into account the exercise of due diligence.

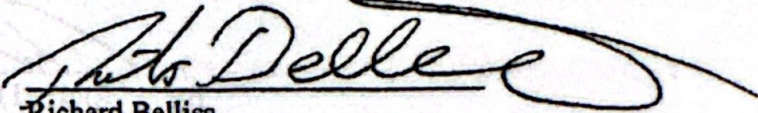
4. The parties stipulate and agree that the thirty (30) day time period from the date of this order, to and including July 21, 2009, shall be excludable under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iii).

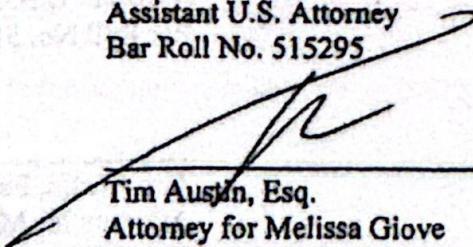
The undersigned attorneys affirm under penalty of perjury the accuracy of the facts set forth above and apply for and consent to the proposed order set forth below.

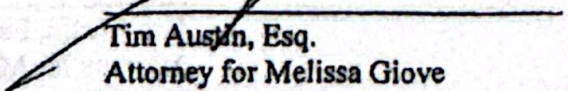
Dated: June 19, 2009

ANDREW T. BAXTER
United States Attorney

By:


Richard Belliss
Assistant U.S. Attorney
Bar Roll No. 515295


Tim Austin, Esq.
Attorney for Melissa Giove
Bar Roll No. 508098


John P. Coseo
Attorney for Eric Canori
Bar Roll No.

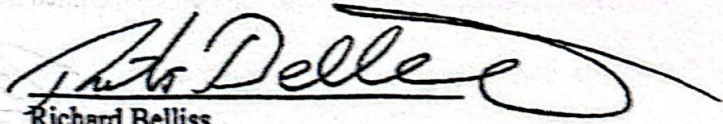
continuance outweigh the best interests of the public and the defendants in a speedy trial. The nature of the investigation, its complexity, and the need for additional time for the defense attorneys to consult with their clients and review evidence make it unreasonable to expect the defense to be prepared to conduct a preliminary hearing on June 30, 2009, taking into account the exercise of due diligence.

4. The parties stipulate and agree that the thirty (30) day time period from the date of this order, to and including July 21, 2009, shall be excludable under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iii).

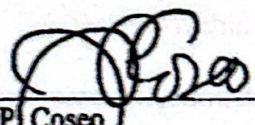
The undersigned attorneys affirm under penalty of perjury the accuracy of the facts set forth above and apply for and consent to the proposed order set forth below.

Dated: June 19, 2009

ANDREW T. BAXTER
United States Attorney

By: 
Richard Belliss
Assistant U.S. Attorney
Bar Roll No. 515295

Tim Austin, Esq.
Attorney for Melissa Giove
Bar Roll No.



John P. Coseo
Attorney for Eric Canori
Bar Roll No. 104031

ORDER

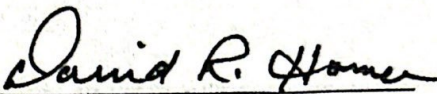
A. The Court incorporates into this Order the stipulated facts set forth above and hereby adopts them as findings.

B. The Court has considered its obligation under 18 U.S.C. § 3161(h)(7)(A) to determine whether a continuance serves the ends of justice in a manner that outweighs both the public interest and the defendant's rights. The Court finds that pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by granting the requested continuance outweigh the best interests of the public and the defendants in a speedy trial because (i) the nature of the investigation, its complexity, and the need for further forensic analysis of the seized electronic evidence make it unreasonable to expect adequate preparation for the preliminary hearing and for the return and filing of an indictment within the period specified in section 3161(b), taking into account the exercise of due diligence; and (ii) the initial communication challenges between the defendants and their attorneys has made it unreasonable to expect the defense to adequately prepare its defense during the initial stages of this case, taking into account the exercise of due diligence.

BASED ON THE STIPULATED FACTS AND THE COURT'S RELATED FINDINGS IT IS HEREBY ORDERED that (i) the date on which a preliminary hearing be held is continued for thirty (30) days from the date of June 30, 2009; and (ii) the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), be enlarged to and including thirty (30) days from the date of the signing of this Order; and (iii) that such time be

excluded, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), from the computation of the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), because the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in a speedy trial for the reasons stipulated above.

Dated: June 23, 2009


Hon. David R. Homer
United States Magistrate Judge