

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

§

Plaintiff,

§

§

v.

§

Cause No. CR 06-538 JH

§

DANUEL DEAN QUAINANCE,

§

§

Defendant.

§

MOTION FOR CONTINUANCE OF TRIAL

DANUEL DEAN QUAINANCE, Defendant, by and through the undersigned appointed counsel, Marc H. Robert, Assistant Federal Public Defender, moves the Court for an order continuing the trial of this case from its present setting, and in support of this motion would respectfully show the Court as follows:

1. Mr. Quaintance is charged by superseding indictment filed on May 17, 2006 [Doc. 65] with possession of more than 50 kilograms of marijuana with intent to distribute it and conspiracy to possess more than 100 kilograms of marijuana with intent to distribute. Mr. Quaintance was arraigned on June 2, 2006 and entered a not guilty plea to all charges. Trial is presently scheduled for May 21, 2007. Calendar call is scheduled for May 10, 2007 in Albuquerque.

2. The Court has denied Mr. Quaintance's motion to dismiss the indictment on the basis of the First Amendment to the United States Constitution and the Religious Freedom Restoration Act. A motion for reconsideration has been filed. Motions in limine regarding the religious defense are pending. The parties continue to discuss a possible resolution of the

case. Counsel for Mr. Quaintance has filed a motion seeking leave to withdraw from Mr. Quaintance's representation. Mr. Quaintance believes that additional time is needed to complete these matters, and asks that the trial be postponed until the Court's June trial docket, with a possible trial date in the first week of July (the third week of the June docket), as discussed during the status conference on May 4.

3. This motion is filed in order to ensure Mr. Quaintance's rights to effective assistance of counsel, due process and a fair trial.

4. The undersigned counsel has conferred with Assistant United States Attorney Luis A. Martinez, with attorney Bernadette Sedillo (for Joseph Butts) and with attorney Mario Esparza (for Mary Helen Quaintance) concerning this matter. The government does not oppose this motion. Ms. Quaintance does not oppose this motion. Ms. Sedillo has indicated that Mr. Butts opposes a continuance of the trial setting. The undersigned counsel will provide a proposed form of order for the Court's convenience.

5. In compliance with the provisions of 18 U.S.C. § 3161(h)(8)(A), the undersigned affirmatively states that the ends of justice will be served by granting this continuance. Further, the undersigned represents that the necessity for complete and adequate preparation of the facts and circumstances relating to pretrial matters in this case outweighs the interest of the public and the defendant in speedy trial. Mr. Quaintance waives his speedy trial rights to the extent such waiver is necessary to grant the continuance requested herein.

WHEREFORE, for the foregoing reasons, DANUEL DEAN QUAINANCE, Defendant, by and through the undersigned counsel, respectfully prays that the Court enter an order granting a continuance of the trial in this cause from its present setting on the May 21,

2007 trial calendar to the June, 2007 trial calendar; and providing for such other and further relief to which the Court may find Mr. Quaintance to be justly entitled.

Respectfully Submitted,

FEDERAL PUBLIC DEFENDER
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filed electronically on May 7, 2007
MARC H. ROBERT
Assistant Federal Public Defender
Las Cruces Office

Counsel for Mr. Quaintance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Continuance of Trial Setting was served on Assistant United States Attorney Luis A. Martinez and Amanda Gould, 555 Telshor, Suite 300, Las Cruces, New Mexico, 88011, by placing it in the box designated for the United States Attorney's Office at the United States District Court Clerk's office; Mr. Mario A. Esparza, P.O. Box 2468, Las Cruces, New Mexico 88004; Ms. Bernadette Sedillo, 201 N. Church St., Suite 330, Las Cruces, New Mexico 88001 on May 8, 2007.

filed electronically on May 7, 2007
MARC H. ROBERT

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