

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:18cr283-MHT
)	(WO)
TONETTA RUTH HARDAWAY)	

ORDER

This case is before the court on defendant Tonetta Ruth Hardaway's motion to continue trial. For the reasons set forth below, the court finds that jury selection and trial, now set for March 13, 2019, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a trial continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a

judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "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." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Hardaway in a speedy trial. Both parties represented on the record that additional time is needed given the court's recent

rejection of Hardaway's plea and the proposed plea agreement, which occurred on February 13, 2019. The court agrees that a continuance is warranted for both parties to adequately prepare for trial.

Accordingly, it is ORDERED as follows:

(1) Defendant Tonetta Ruth Hardaway's motion to continue (doc. no. 180) is granted.

(2) The jury selection and trial for defendant Hardaway, now set for March 13, 2019, are continued to May 20, 2019, at 10:00 a.m., in the Frank M. Johnson Jr. United States Courthouse Complex, Courtroom 2FMJ, One Church Street, Montgomery, Alabama.

DONE, this the 5th day of March, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE