

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:13-cr-00305-BO

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 ) GOVERNMENT'S UNOPPOSED MOTION  
 v. ) TO CONTINUE ARRAIGNMENT  
 ) AND TRIAL  
 )  
 BASIT JAVED SHEIKH )  
 a/k/a "Abdul Basit" )  
 )  
 Defendant. )  
 )

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The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby moves this Honorable Court for an Order continuing the arraignment and trial in the above captioned matter. Arraignment and trial are currently set for 8 January 2015. Based on the information below, the Government requests that arraignment and trial be continued until the February 2015 term of court (with the exception of February 10-18).

**BACKGROUND**

1. Arraignment and Trial were originally scheduled for 27 October 2014.<sup>1</sup>

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<sup>1</sup> SHEIKH was originally arrested on 2 November 2013 and subsequently indicted on 5 November 2013. See DE 1 and 10. Arraignment and Trial were continued until October 2014 as a result of defense requests for continuances and a psychiatric evaluation of SHEIKH in order to determine his competency to stand trial. See e.g., DE 30 and 51.

2. On 28 August 2014, this Honorable Court *sua sponte* rescheduled arraignment and trial for 3 November 2014.

3. On 13 October 2014, counsel for SHEIKH filed a motion requesting a second psychiatric evaluation to determine SHEIKH's competency to stand trial.<sup>2</sup>

4. On 17 October 2014, a hearing regarding the necessity of a second competency evaluation took place before this Court.

5. On 20 October 2014, this Court granted the defense's request and ordered that an examination be accomplished in an expedited manner, that the report be filed no later than 8 December 2014, and that arraignment and trial be continued until 15 December 2014.<sup>3</sup>

6. On 24 November 2014, because the competency examination of SHEIKH would not be completed in time to allow for the trial to proceed on 15 December 2014, this Court rescheduled the arraignment and trial to 8 January 2015.

#### **BASIS FOR REQUESTED RELIEF**

In early September of 2013, the Government procured the services of Mr. Charles Lister to assist the Government as an expert on the topics of Syria and Terrorism. Since then Mr.

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<sup>2</sup> See DE 70. In March of 2014, counsel for SHEIKH had requested psychiatric evaluation pursuant to 18 U.S.C. § 4241. See DE 53. This Court ordered such an evaluation on 25 March 2014, and a forensic psychologist evaluated SHEIKH and subsequently opined that SHEIKH did not suffer from any mental disease or defect that would render him incompetent for trial. However, within DE 70, counsel for SHEIKH submitted that there existed new facts requiring further evaluation.

<sup>3</sup> See DE 76.

Lister has spent numerous hours reviewing evidence, conferring with the Government in an advisory role, and preparing with the Government on the expectation that he will be a prominent witness for the Government during the trial of SHEIKH. This has of course occurred at a cost to the Government both financially and in terms of time. This year, as the trial was rescheduled from November to December, Mr. Lister rearranged his own schedule in order to meet the Government's needs, which meant pushing many of his other responsibilities into January. Mr. Lister is currently residing in Doha, Qatar, as a Visiting Fellow to the Brookings Institution located there and he frequently travels internationally in relation to his field of study. In addition, the pool of qualified candidates in Mr. Lister's area of expertise who could serve as a suitable testifying expert is rather small. Unfortunately, Mr. Lister is now unable to accommodate the Government's need for his presence should trial take place between January 9-28 or February 10-18.

Although understandably of less importance, undersigned counsel for the Government also has personal reason to request that arraignment and trial not occur the week of 12 January 2015.<sup>4</sup> In October 2014, in an effort to avoid any potential conflict with this trial should it be continued, undersigned counsel pushed his out-of-state family holiday vacation to mid-January 2015. This

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<sup>4</sup> The Government estimates that trial will take 3-5 days and thus would expect that a trial beginning on Thursday, 8 January, would continue into the week of 12 January 2015.

vacation is scheduled for January 12-16, non-refundable expenses have been made, and extensive scheduling of family member's work vacation times has been accomplished.

Finally, the Government has conferred with counsel for SHEIKH who has stated no objection to the Government's requested continuance.

**CONCLUSION**

For the reasons set forth above, the Government respectfully requests that the presently scheduled arraignment and trial in the above captioned matter be continued to take place within the February 2015 term of court with the exception of February 10-18.

Respectfully submitted this 2<sup>nd</sup> day of December, 2014.

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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing GOVERNMENT'S UNOPPOSED MOTION TO CONTINUE ARRAIGNMENT AND TRIAL has been served upon the below counsel for the defendant in this action by electronically filing the foregoing with the Clerk of court, using the CM/ECF system:

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
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UNITED STATES OF AMERICA, )  
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 v. ) ORDER  
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 BASIT JAVED SHEIKH )  
 a/k/a "Abdul Basit" )  
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 Defendant. )

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Upon the unopposed motion of the Government and for good cause shown, it is hereby ORDERED that the arraignment and trial in the above-captioned matter be continued until \_\_\_\_\_.

The Court finds that the ends of justice served by this continuance outweigh the interests of the defendant and the public in a speedy trial. Therefore any delay caused by this continuance shall be excluded pursuant to 18 U.S.C. § 3161(h).

SO ORDERED this \_\_\_\_ day of December, 2014.

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TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE