

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 1:16 mj 355
)	
NICHOLAS YOUNG)	

CONSENT MOTION TO EXTEND TIME FOR INDICTMENT

The United States of America, with the express consent of the defendant, and the defendant's counsel, moves the Court to extend for 60 days the time to indict this case through and including November 2, 2016. In support thereof, the parties state as follows:

1. The defendant was arrested on a complaint charging him with attempting to provide material support to a designated terrorist organization, in violation of 18 U.S.C. § 2339B. The defendant made his initial appearance on August 3, 2016, and upon the government's motion, was temporarily detained. On August 4, 2016, the defendant waived his right to a preliminary hearing. On August 11, 2016, United States Magistrate Judge John F. Anderson ordered the defendant detained pending trial in this matter.

2. The Speedy Trial Act requires that the defendant be indicted within 30 days of the defendant's arrest after subtracting all excludable time. The indictment deadline in this matter is Friday, September 2, 2016. The parties jointly request an additional 60 days for an extension of the time to indict, through and including November 1, 2016. Extending this time period for 60 days would be in the best interests of justice in that it would facilitate the parties' ability to resolve discovery issues that are particular to cases such as this one, involving classified

materials, and so that they can determine whether to explore a pre-indictment plea resolution in this matter.

3. David Smith has been appointed to represent the defendant. As noted above, this case will involve discovery that can be provided only in classified form. The parties have promptly addressed some of the discovery issues arising from this case. On August 4, 2016, the government provided to defense counsel copies of the reports of the eight separate interviews of the defendant that took place between 2011 and 2015. The United States plans to provide to the defense within the next two weeks copies of all the email traffic that were exchanged between the defendant and the government agents between August 2014 and July 2016. The defense naturally will need significant time to examine this information.

4. On August 17, 2016, and with the consent of the defendant, the government moved for entry of a protective order to govern the treatment of sensitive (but not classified) discovery information in this case.

5. Mr. David Smith plans on being assisted in his representation of the defendant by his son, Nicholas Smith. Mr. David Smith does not have a current clearance, but Nicholas Smith is in the process of applying for a security clearance so that he can examine the classified discovery. Even so, it may well be weeks before the clearance is granted. Even after the requisite security clearance is obtained, examining the classified evidence through cleared counsel naturally will take significant time

5. Defense counsel need significant time to review the discovery in this case, and time to review and discuss that discovery with the defendant.

6. The defendant hereby agrees to waive any objections under the Speedy Trial Act and to extend the government's time to file an indictment in this case through and including October 6, 2016. The waiver is made knowingly, intentionally, and voluntarily by the defendant, and with full knowledge of the provisions of the Speedy Trial Act, Title 18, United States Code, Sections 3161, *et seq.*, and with the advice and consent of counsel.

7. The defendant expressly understands that his waiver is not predicated upon any promises, agreements, or understandings of any kind between the government and the defense in this case, and that nothing contained herein shall be construed to preclude the government from proceeding against the defendant during or after the time period covered by this waiver.

WHEREFORE, the parties request that the time to indict this case be extended to and including November 2, 2016, and that the delay resulting from this extension be excluded in computing the time within which an indictment must be filed pursuant to Title 18, United States Code, Section 3161(h).

Respectfully submitted,

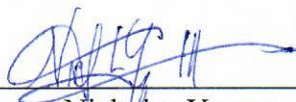
Dana J. Boente
United States Attorney

By: _____/s_____
Gordon D. Kromberg
Assistant United States Attorney

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all my rights with respect to a speedy trial, including my right to be charged by indictment within 30 days of arrest, as required by Title 18, United States Code, Section 3161(b).

I have read this motion for an extension of time to be charged by indictment, and carefully reviewed every part of it with my attorney. I understand this motion and voluntarily agree to it.

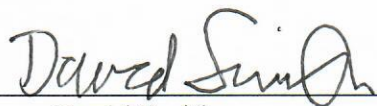
Date: 8/12/16



Nicholas Young
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's right to be charged by indictment within 30 days of arrest. Specifically, I have reviewed the terms and conditions of Title 18, United States Code, Section 3161(b), and I have fully explained to the defendant the provisions that may apply in this case. To my knowledge, the defendant's decision to agree to an extension of time to be charged by indictment is an informed and voluntary one.

Date: 8/12/16



David Smith
Counsel for the Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2016, I electronically filed the foregoing CONSENT MOTION TO EXTEND TIME FOR INDICTMENT with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record.

/s/

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ORDER

Upon the joint motion of the United States, by and through its attorneys, and the defendant, NICHOLAS YOUNG, by and through his attorney, and finding in accordance with 18 U.S.C. § 3161, for the reasons stated in the Consent Motion to Extend Time for Indictment, that the ends of justice served by granting the extension outweigh the best interests of the public and the defendant in a speedy trial, it is hereby,

ORDERED that the time period for indicting the defendant be and is hereby extended up to and including November 2, 2016.

Date: _____
Alexandria, Virginia