UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

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UNITED STATES OF AMERICA	
V.	
BARRETT LANCASTER BROWN	

Criminal No. 3:12-CR-317-L

ORDER RESETTING TRIAL

Before the court is Defendant Barrett Lancaster Brown's Unopposed Motion for Continuance, filed March 4, 2013. Upon consideration of the motion and the applicable law, and in accordance with the findings set forth below, the court determines that the motion should be and is hereby **granted**.

Defendant Brown requests a continuance because defense counsel needs additional time to process and prepare the large amounts of electronic discovery. Defense counsel and counsel for the government agree to a trial setting in August or September, 2013. In accordance with 18 U.S.C. § 3161(h)(8)(A) and (B)(iv), this court finds that the ends of justice served by granting this motion for continuance outweigh the best interest of the public and Defendant in a speedy trial. In this regard, this court has considered factors indicating that its failure to grant this motion would deny counsel for Defendant reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Therefore, any period of delay resulting from this court's granting the motion for continuance shall be excluded in computing the time within which the trial of this cause must commence under 18 U.S.C. § 3161.

Order Resetting Trial - Page 1

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Accordingly, the current trial setting of April 8, 2013, is hereby vacated, and this case is

reset for trial on Tuesday, September 3, 2013, at 9:00 a.m.

The following revised scheduling order is issued for Defendant Barrett Lancaster Brown:

Motion Deadline:	June 21, 2013, at 4:00 p.m.
Motion Response Deadline:	July 5, 2013, at 4:00 p.m.
Trial Setting:	September 3, 2013, at 9:00 a.m.

All other portions of the court's original Criminal Trial Scheduling Order remain in effect.

It is so ordered this 6th day of March, 2013.

7. findsay Sam A. Lindsay

United States District Judge

Order Resetting Trial – Page 2

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff,	§	3:12-CR-317-L
V.	§	3:12-CR-413-L
	§	3:13-CR-030-L
BARRETT LANCASTER BROWN,	§	
Defendant.	§	ECF

UNOPPOSED MOTION FOR CONTINUANCE

Defendant **BARRETT LANCASTER BROWN**, by his counsel, Assistant Federal Public Defender Douglas A. Morris, hereby moves this Court for an order continuing this case and for a finding of excludable time under the Speedy Trial Act as found in Title 18, United States Code, Sections 3161, <u>et. seq.</u>, for this reason, summarily stated, that the ends of justice outweigh the best interests of the public and Mr. Brown in a speedy trial as the same is specifically defined in the aforesaid Act in 18 U.S.C. § 3161(h).

Trial in **3:12-CR-317-L** is presently scheduled to begin on April 8, 2013, at 0900 hours, and trial in **3:12-CR-413-L** and **3:13-CR-030-L** is currently scheduled to begin on May 6, 2013. Mr. Brown requests that the trials be delayed until on or about the August 2013. He also requests that the pretrial requirements be appropriately adjusted to dates that this Court sees fit. Mr. Brown certifies that the reasons for this request do not include lack of diligent preparation on the part of the parties involved.

1. The government has provided a large amount of electronic discovery and counsel is confident that the government will forward any other required evidence that it possesses or will possess in the future. Undersigned counsel and staff continue to process and prepare the large amount electronic discovery so that it is accessible to counsel, counsel's staff, and Mr. Brown. 2. The Speedy Trial Act clock has been tolled due to the pendency of this Motion.

3. The government is not opposed to this request for a continuance.

4. The Code provides that a district court may continue a case when

the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), [but] 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.

18 U.S.C. § 3161(h)(8)(B)(iv).

5. Counsel certifies to this Court that he is preparing for this case with due diligence and that

this Motion is not made for purposes of delay.

6. Counsel requests that this Court grant a continuance in all three cases and set the trials for

the month of August 2013.

WHEREFORE, BARRETT LANCASTER BROWN respectfully requests that this Court

continue the trial date set in this matter.

Respectfully submitted,

<u>s/s Douglas A. Morris</u> Douglas A. Morris Assistant Federal Public Defender Northern District of Texas Texas Bar No. 24028323 525 Griffin, Suite 629 Dallas, Texas 75202 214.767.2746 214.767.2886 (facsimile) Attorney for Mr. Barrett Lancaster Brown

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 5.1 of the Northern District of Texas, I certify that I met with Candina S. Heath, the Assistant United States Attorney assigned to the case. During this conference it was determined that the government does not oppose this request for a continuance.

CERTIFICATE OF SERVICE

I certify that on March 4, 2013, I caused a copy of Defendant's Unopposed Motion for a Continuance of Trial to be delivered via electronic filing to the Honorable Sam A. Lindsay, United States District Judge; and Candina S. Heath, Assistant United States Attorney, at 1100 Commerce Street, Dallas, Texas.

> <u>s/s Douglas A. Morris</u> Douglas A. Morris Assistant Federal Public Defender

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA	ê 8		
v.	s S	No.	3:13-CR-030-L
BARRETT LANCASTER BROWN	9 §		

MOTION FOR NOTICE PURSUANT TO FED. R. CRIM. P. 12.2

1. The United States, acting by and through the undersigned United States Attorney for the Northern District of Texas, requests this Court for an Order that Barrett Brown be ordered to comply with Fed. R. Crim. P. 12.2.

2. Specifically, the government requests that Brown provide written notice pursuant to the Fed. R. Crim. P. 12.2(b), of his intent to rely upon on any evidence or expert testimony relating to a mental disease or defect or any other mental condition of Brown, bearing on the issue of Brown's guilt. The government also requests the disclosure of any reports of examination pursuant to Fed. R. Crim. P. 12.2(c). The government requests that the written notice and the disclosure of any reports be accomplished at least 30 days prior to the trial date, so that the government could determine whether it needs to consult with or retain the services of an expert witness.

3. Further, the government requests that this court exclude any evidence pursuant to

Fed. R. Crim. P. 12.2, if the defendant fails to provide timely notice or produce the reports.

Respectfully submitted,

SARAH R. SALDAÑA UNITED STATES ATTORNEY

<u>S/ Candina S. Heath</u> CANDINA S. HEATH Assistant United States Attorney State of Texas Bar No. 09347450 1100 Commerce Street, 3rd Floor Dallas, Texas 75242 Tel: 214.659.8600 Fax: 214.767.2846 candina.heath@usdoj.gov

CERTIFICATE OF CONFERENCE

I hereby certify that on February 26, 2013, I advised Barrett Brown's attorney Doug Morris of my intent to file this motion, and requested his position. Mr. Morris advised me that he did not oppose this motion.

<u>S/ Candina S. Heath</u> CANDINA S. HEATH Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2013, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to Brown's attorney of record Doug Morris who consented in writing to accept this Notice as service of this document by electronic means.

<u>S/ Candina S. Heath</u> CANDINA S. HEATH Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA	ê 8		
V.	Ş	No.	3:13-CR-030-L
BARRETT LANCASTER BROWN	9 §		

MOTION FOR RECIPROCAL DISCOVERY

1. The United States, acting by and through the undersigned United States Attorney for the Northern District of Texas, requests this Court for an Order that the defendant in this case be ordered to produce reciprocal discovery.

2. Specifically, the government formally requests reciprocal discovery pursuant to the Fed. R. Crim. P. 16(b)(A) and (B) and witness statements pursuant to Fed. R. Crim. P. 26.2. The government respectfully further requests that this Court enter an Order that the defendant produce the following:

(a) Any documents which the defendant intends to use in his case in chief (Fed. R.Crim. P. 16(b)(A));

(b) Any digital evidence which the defendant intends to use in his case in chief (Fed.

R. Crim. P. 16(b)(A));and

(c) Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the case (Fed. R. Crim. P. 16(b)(B));

3. To date, the government has provided full discovery to the defense, and will continue to provide discovery as addition evidence is acquired.

4. The Supreme Court favors a criminal justice system that permits a complete, truthful disclosure of the critical facts. *Taylor v. Illinois*, 484 U.S. 400, 412 (1988). "Discovery, like cross-examination, minimizes the risk that a judgment will be predicated on incomplete, misleading, or even deliberately fabricated testimony."). *Id.* at 411-12. A criminal jury trial is not "a poker game in which players enjoy an absolute right always to conceal their cards until played." *Williams v. Florida*, 399 U.S. 78, 82 (1970). In *Williams*, the defense challenged Florida's rule permitting notice of an alibi defense. Finding this form of discovery did not violate due process or fair trial concerns, the Court went on to state that the rule was intended "to enhance the search for truth in the criminal trial by insuring both the defendant and the State ample opportunity to investigate certain facts crucial to the determination of guilt or innocence." *Id.* at 81-82.

5. Similarly, the federal rules which provide for reciprocal discovery were intended to avoid a "trial by ambush" strategy, which runs contrary to the ends of justice. Accordingly, pursuant to Fed. R. Crim. P. 16(b)(A) and (B) and Fed. R. Crim. P. 26, the government hereby moves formally for reciprocal discovery from the defendant in this case. The government requests the discovery be provided not later than thirty days prior to the trial setting. The government requests witness statements be provided per local custom at least one day before the witness testifies. In the event that reciprocal discovery is not produced, the Government requests the Court enter an order barring the introduction

Government's Motion for Reciprocal Discovery - page 2

and use at trial of any evidence not produced by the defendant in response to this motion

for reciprocal discovery.

Respectfully submitted,

SARAH R. SALDAÑA UNITED STATES ATTORNEY

<u>S/ Candina S. Heath</u> CANDINA S. HEATH Assistant United States Attorney State of Texas Bar No. 09347450 1100 Commerce Street, 3rd Floor Dallas, Texas 75242 Tel: 214.659.8600 Fax: 214.767.2846 candina.heath@usdoj.gov

CERTIFICATE OF CONFERENCE

I hereby certify that on February 26, 2013, I advised Barrett Brown's attorney Doug Morris of my intent to file this motion, and requested his position. Mr. Morris advised me that he did not oppose this motion.

<u>S/ Candina S. Heath</u> CANDINA S. HEATH Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2013, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to Brown's attorney of record Doug Morris who consented in writing to accept this Notice as service of this document by electronic means.

<u>S/ Candina S. Heath</u> CANDINA S. HEATH Assistant United States Attorney