

FILED

AUG 03 2017

UNITED STATES DISTRICT COURT
FOR THE DISTRICT FOR COLUMBIA

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES OF AMERICA

v.

GEORGE PAPADOPOULOS,

Defendant

Criminal No. 1:17-mj-539

UNDER SEAL

**CONSENT MOTION TO ADJOURN PRELIMINARY HEARING,
FOR A CONTINUANCE UNDER THE SPEEDY TRIAL ACT, AND
TO MAINTAIN THE CRIMINAL COMPLAINT UNDER SEAL**

The United States, by and through undersigned counsel, moves the Court to adjourn the preliminary hearing currently scheduled for August 8, 2017; to continue for 30 days the time within which an indictment or information would otherwise have to be filed, pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A); and to maintain the criminal complaint under seal for the duration of the requested continuance. In support of its motion, which is unopposed, the United States avers as follows:

1. Defendant Papadopoulos (defendant) served as a foreign policy advisor for the presidential campaign of Donald J. Trump starting no later than on or about March 16, 2016, and continuing through most of that campaign. On July 27, 2017, defendant was arrested when he landed at Washington Dulles International Airport on a flight from Munich, Germany. The next day, the defendant was charged in a sealed criminal complaint in this district with making false statements to agents of the Federal Bureau of Investigation, in violation of 18 U.S.C. § 1001; and altering or concealing records, in violation of 18 U.S.C. § 1519.

2. Defendant made his initial appearance on July 28, 2017 in the Eastern District of Virginia, the district where he had been arrested. *See* Fed. R. Crim. P. 5(c)(2). At the initial appearance, defendant was advised of his rights and was released on bail subject to certain

conditions—*i.e.*, that he not travel outside of the Eastern District of Virginia, District of Columbia, or Northern District of Illinois; that he surrender his passports and not apply for any new one; and that he not communicate with anyone associated with the presidential campaign or other individuals or entities referenced in the sealed complaint and accompanying affidavit.

3. On July 31, 2017, this Court scheduled defendant's preliminary hearing for August 8, 2017. The Court need not conduct such a hearing, however, if "the defendant waives the hearing." Fed. R. Crim. P. 5.1(a)(1); *see* 18 U.S.C. § 3060(b). On August 2, 2017, defendant's counsel, Thomas M. Breen, informed the government that defendant wishes to waive his right to a preliminary hearing. The government therefore moves the Court to accept that waiver and to adjourn the hearing currently scheduled for August 8, 2017.

4. Under the Speedy Trial Act, the government presently has until August 28, 2017 to file an indictment or information. *See* 18 U.S.C. § 3161(b); *see also, e.g., United States v. Salgado*, 250 F.3d 438, 454 (6th Cir. 2001) (where defendant is arrested before a complaint is filed, Section 3161(b)'s 30-day period runs from the date of the complaint). Counsel for defendant and counsel for the government have had discussions about possible dispositions of this case, and continue to be engaged in those discussions. Although those discussions are ongoing, the parties do not anticipate completing them before the current deadline under the Speedy Trial Act. Accordingly, to allow those discussions to continue, the government requests that the Court continue the time within which to file an indictment or information for 30 days, through and including September 27, 2017. *See* 18 U.S.C. § 3161(h)(7)(A) (providing for ends-of-justice continuances); *United States v. Zaitar*, 858 F. Supp. 2d 103, 109 n.7 (D.D.C. 2012) (explaining that the court had excluded time under the Speedy Trial Act "because the parties . . . were engaged in plea negotiations," and

noting out-of-circuit authority approving of such continuances). On August 2, 2017, counsel for defendant informed the government that defendant consents to this request.

5. On July 28, 2017, this Court ordered that the criminal complaint, the supporting affidavit, and associated filings be sealed. *See* July 28, 2017 Order. The Court found, in relevant part, that public disclosure of those materials would jeopardize an ongoing criminal investigation, there were no available alternatives less drastic than sealing that sufficed to protect the government's legitimate interest in concluding the investigation, and the government's legitimate interest outweighed any interest in the disclosure of the material. *Id.* The government submits that those determinations remain true at this stage and, in particular, that public disclosure of the complaint and associated filings would significantly interfere with defendant's ability to cooperate in the government's investigation (which cooperation may be relevant to ongoing plea negotiations) and may alert other subjects of the ongoing investigation to the direction and status of the investigation, thereby allowing them to conceal or destroy potentially incriminating evidence. As a result, both the interests of the parties and "the public interest" support maintaining the materials at issue under seal for the limited period of time at issue. *See Metlife, Inc. v Financial Stability Oversight Council*, No. 16-5188, 2017 WL 3255173, at *3 (D.C. Cir. Aug. 1, 2017).

6. On August 2, 2017, counsel for defendant informed the government that defendant consents to the continued sealing of the complaint and accompanying filings, including this motion and the Court's order resolving the motion.

For the foregoing reasons, the United States respectfully requests that the Court adjourn the preliminary hearing currently scheduled for August 8, 2017; continue for 30 days the time within which an indictment or information would otherwise have to be filed, pursuant to the

Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A); and maintain the criminal complaint under seal for the duration of the requested continuance. A proposed Order accompanies this motion.

Date: August 3, 2017

Respectfully submitted,

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UNDER SEAL

**ORDER ADJOURNING PRELIMINARY HEARING,
GRANTING A CONTINUANCE UNDER THE SPEEDY TRIAL ACT,
CONTINUING SEALING OF THE CRIMINAL COMPLAINT, AND
SEALING MOTION AND COURT ORDER**

The Court having considered the unopposed motion of the United States to adjourn the preliminary hearing currently scheduled for August 8, 2017; to continue for 30 days the time within which an indictment or information would otherwise have to be filed, pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A); and to maintain the criminal complaint and associated filings under seal for the duration of the requested continuance, it is hereby

ORDERED that the United States' motion is GRANTED; it is further

ORDERED that, the defendant having waived his right to a preliminary hearing, the hearing scheduled for August 8, 2017 is adjourned; it is further

ORDERED that, the Court having found that the government has been engaged in discussions with counsel for the defendant about possible dispositions of this case and that the granting of a continuance to allow such discussions best serves the ends of justice and outweighs the best interests of the public and the defendant in a speedy trial, the motion to continue for 30 days the time within which to file an indictment is GRANTED; it is further

ORDERED that, pursuant to 18 U.S.C. § 3161(h)(7)(A), the time within which to file an indictment or information is continued through and including September 27, 2017; it is further

ORDERED that, the Court having found that revealing the material sought to be sealed would jeopardize an ongoing criminal investigation, no available alternatives less drastic than sealing would suffice to protect the government's legitimate interest in concluding the investigation, and the government's legitimate interest outweighs at this time any interest in the disclosure of the material, the government's motion to maintain the criminal complaint and associated filings under seal is GRANTED; and it is further

ORDERED that the criminal complaint, arrest warrant, and all associated filings—including this Order and the government's motion seeking the Order—shall remain under seal until further order of the Court.

Date: August 3, 2017

Hon. Beryl A. Howell
Chief United States District Judge