

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff

Case No. 1:04-CR-165

vs.

Hon. Robert Holmes Bell
Chief District Judge

WESLEY MYRON BOSS,

Defendant

**DEFENDANT WESLEY MYRON BOSS' BRIEF IN SUPPORT OF MOTION FOR A
THIRTY DAY "ENDS OF JUSTICE CONTINUANCE"**

The Defendant Wesley Myron Boss is currently charged in a multi-defendant, multi-count superseding indictment filed on October 27, 2004. The Defendant, along with his wife and a number of other individuals, is charged with mail fraud, conspiracy to commit mail fraud, conspiracy to defraud the United States and money laundering.

Originally, the Court issued an order setting trial for February 7, 2005. However, in December, 2004 counsel received a call from Mr. Paul Denefeld who was counsel for Mr. David Albrecht. Mr. Denefeld asked if I would have any objection to a continuance. Counsel informed Mr. Denefeld that he had no objections, however, the only potential problem would be the fact that arrangements had been made in early fall for counsel to travel to Germany from April 30, 2005 to May 10, 2005. Mr. Denefeld informed counsel that he would pass on the information about the vacation to the Court.

Subsequently, on December 21, 2004 this Court issued an order granting in part, Mr. Denefeld's motion and set trial to begin on April 18, 2005. Counsel has spoken with the Assistant United States Attorney prosecuting the case, Mr. Tom Gezon, who has informed me that the trial, should it begin on April 18, 2005, would probably go over into the April 30 to May 10 time frame. Mr. Gezon informed me that he would have no objections on behalf of the Government if this Court were to grant a thirty day continuance.

It is important to note that counsel had made arrangements to travel to Germany in early fall. Tickets for the trip have been purchased, along with making the other necessary travel arrangements. Counsel was stationed in Germany from 1974 to 1978 while on active duty with the United States Army. Counsel will be visiting an old army friend who recently retired as a Colonel and is now living in Heidelberg, Germany.

Furthermore, as Mr. Denefeld stated in his December 6, 2004 brief, the superseding indictment alleges a large scale fraudulent scheme with alleged monetary losses nearing \$20,000,000. The government possesses thousands of documents which need to be reviewed in order to effectively represent Mr. Boss. Counsel has previously requested and the government has granted access to the documentation, however as stated above, there are literally thousands and thousands of documents.

Additionally, Mr. Denefeld has since left the office of the Federal Public Defender and as a result, Mr. Joseph Doele has recently been appointed to represent Mr. David Albrecht. The Court entered such an order on February 18, 2005. Because of the volume of material that will need to be reviewed, Mr. Doele, in all likelihood, would appreciate an additional thirty days to prepare for trial.

The authority granted to courts to exclude time from the running of the seventy day period within which a defendant must be brought to trial by 18 USC § 3161(h)(8)(A) offers “wide latitude to the judges. It allows the courts to respond to the needs of individual cases.” *United States v. White*, 985 F. 2d 271, 275 (6th Cir1993). Under these circumstances, continuance is reasonably necessary and the “ends of justice” would be served by it. Additional time for, not only Mr. Doele, but the all the defense to adequately review the thousands of documents would, “outweigh the best interests of the public in the defendant’s speedy trial.” 18 USC § 3161(h)(8)(A). As the Court is aware, Mr. Boss is currently released on bond.

WHEREFORE, for all of the above stated reasons, the Defendant respectfully requests this honorable Court grant a thirty day continuance from April 18, 2005. Counsel assures this Court that he will be adequately prepared for trial of this case if this motion is granted.

Respectfully submitted,

HAEHNEL & PHELAN

Dated: February 23, 2005

By: /S/ Lawrence J. Phelan
Lawrence J. Phelan (P37493)
Attorney for Defendant

BUSINESS ADDRESS:
200 N. Division Avenue
Grand Rapids, MI 49503
(616) 454-3834