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 UNITED STATES OF AMERICA  
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10 UNITED STATES DISTRICT COURT  
 11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA, ) No. ED CR 07-127-SGL  
 13 )  
 Plaintiff, )  
 14 ) [PROPOSED] FINDINGS AND ORDER  
 v. ) REGARDING EXCLUDABLE TIME  
 15 )  
 JOSE LUIS NAZARIO, JR., )  
 16 )  
 Defendant. )  
 17 )

18 IN THE ABOVE-CAPTIONED MATTER:

19 1. The Indictment in this case was filed on September 4,  
 20 2007. Defendant first appeared before a judicial officer in the  
 21 court in which this charge is pending on August 16, 2007. The  
 22 Speedy Trial Act of 1974, 18 U.S.C. § 3161 et seq., originally  
 23 required that defendant's trial commence on or before November  
 24 13, 2007.

25 2. On September 12, 2007, defendant was arraigned on the  
 26 Indictment and the court set a trial setting conference for  
 27 September 24, 2007.

28 3. On September 24, 2007, based on a request by the

1 parties, the Court continued the trial setting conference and  
2 scheduled a hearing on any discovery motions for November 19,  
3 2007. The Court found that the period from September 24, 2007 to  
4 November 19, 2007 was excludable time within the meaning of the  
5 Speedy Trial Act of 1974, 18 U.S.C. § 3161 et seq.

6 4. Based on a stipulation by the parties, the Court  
7 continued the trial setting conference and hearing on any  
8 discovery motions to December 17, 2007. The Court found that the  
9 period from November 19, 2007 to December 17, 2007 was excludable  
10 time within the meaning of the Speedy Trial Act of 1974, 18  
11 U.S.C. § 3161 et seq.

12 5. At the motion hearing and trial setting conference on  
13 December 17, 2007, defendant requested that this matter be set  
14 for a hearing on a motion to dismiss the indictment on March 3,  
15 2008. The Court continued the trial setting conference and  
16 hearing on any motion to dismiss to March 3, 2008. The Court  
17 found that the period from December 17, 2007 to March 3, 2008 was  
18 excludable time within the meaning of the Speedy Trial Act of  
19 1974, 18 U.S.C. § 3161 et seq.

20 6. At the hearing on March 3, 2008, the Court denied  
21 defendant's motion for a bill of particulars, which was filed on  
22 February 6, 2008. Counsel for defendant requested a trial date  
23 in July 2008 to allow sufficient time to prepare for trial and to  
24 file additional pretrial motions.

25 Based upon the comments by counsel and defendant at the  
26 hearing on March 3, 2008 and on the files and records in this  
27

1 case, THE COURT FINDS that the ends of justice served by  
2 continuing the case as requested outweigh the interest of the  
3 public and the defendant in a trial within the original date  
4 prescribed by the Speedy Trial Act.

5 GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED that the  
6 trial in this matter is scheduled for July 8, 2008 at 9:30 a.m.  
7 with a pretrial hearing and hearing on any motions in limine on  
8 June 23, 2008 at 2:00 p.m.

9 IT IS FURTHER ORDERED that any motions to dismiss the  
10 indictment shall be filed by March 28, 2008. Oppositions shall  
11 be filed by April 11, 2008. Replies, if any, shall be filed by  
12 April 18, 2008. Hearing on any motions to dismiss the indictment  
13 is scheduled for April 21, 2008 at 3:00 p.m.

14 IT IS FURTHER ORDERED that, for the purpose of computing  
15 time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq.,  
16 within which trial must commence, the time period from March 3,  
17 2008 to July 8, 2008 is deemed excludable pursuant to 18  
18 U.S.C. § 3161(h)(8)(A) and (B)(iv) because it results from a  
19 continuance granted by the court at the defendant's request  
20 without government objection on the basis of the court's finding  
21 that the ends of justice served by taking such action outweigh  
22 the best interest of the public and the defendant in a speedy  
23 trial.

24 Nothing in this order shall preclude a finding that other  
25 provisions of the Speedy Trial Act dictate that additional time  
26 periods are excludable from the period within which trial must  
27

IT IS SO ORDERED

Dated MAR 24 2008

  
United States District Judge

1 commence.

2 IT IS SO ORDERED.

3 Dated: March 24, 2008

4 HONORABLE STEPHEN G. LARSON  
5 United States District Judge

6 Presented by:

7 /s/

8 JERRY A. BEHNKE  
9 Assistant United States Attorney

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