

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**GILBERT MANNING and
DEMARIO MALONE,**

Defendants.

No. 12-30330-DRH

ORDER

HERNDON, Chief Judge:

Now before the Court is defendant Malone's motion to continue trial (Doc. 91). Defendant states that he needs additional time to obtain documentary evidence to assist in his defense. Further, defendant's motion sets forth his counsel's availability/unavailability due to his trial schedule in the coming months.¹ The government does not object to a continuance and neither does counsel for defendant Manning. The Court being fully advised in the premises finds that defendant needs additional time to prepare for trial. The Court finds that pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by the

¹ The motion states: "Counsel is available for trial during the first week of June, assuming the documents subpoenaed in connection with Defendant's defense are received by that date. In the alternative, counsel is available for trial during the month of September, but no sooner, as a result of a complex and large scale conspiracy matter scheduled for trial in the Eastern District of Missouri on August 5, 2013 in United States v. Randall Sutton et al.. 4:09-cr-509 JCH, a fifty count fraud matter, the activities of which allegedly extended into multiple states and affected a large number of individuals who purchased prepaid funeral and burial services." (Doc. 91, pg. 2)

granting of such continuance outweigh the best interests of the public and *all* defendants in a speedy trial. The Court also finds that to deny a continuance of the matter would result in a miscarriage of justice.

Therefore, the Court **GRANTS** defendant's motion to continue trial (Doc. 91). The Court **CONTINUES** the jury trial scheduled for May 6, 2013 to **Monday, September 30, 2013, at 9:00 a.m.** The time from the date the original motion was filed, April 23, 2013, until the date to which the trial is rescheduled, September 30, 2013, is excludable time for the purposes of speedy trial.

Should either party believe that a witness will be required to travel on the Justice Prisoner and Alien Transportation System (JPATS) in order to testify at the trial of this case, a writ should be requested at least two months in advance.

IT IS SO ORDERED.

Signed this 24th day of April, 2013.

 Digitally signed by
David R. Herndon
Date: 2013.04.24
09:54:33 -05'00'



**Chief Judge
United States District Court**