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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RENE MARTIN VERDUGO-URQUIDEZ,

Defendant.

Case No.

LA CR87-00422-JAK (3)

LA CV15-09274-JAK

FINDINGS OF FACT AND CONCLUSIONS
OF LAW RE: SPEEDY TRIAL ACT

On May 22, 2017, in concurrent civil matter CV 15-9274, this Court granted a motion filed by defendant Rene Martin Verdugo-Urquidez ("defendant") pursuant to 28 U.S.C. § 2255, vacated defendant's convictions, and ordered the government to indicate whether it would proceed to new trial in this matter. Based on the pleadings filed by the parties in conjunction with the 28 U.S.C. § 2255 motion, the Court has familiarity with the underlying facts in this case.

In a separate filing, the government indicated that it wished to conduct mitochondrial DNA tests of forensic evidence seized in the original investigation, and asked for further time to report to the Court on its intentions with regard to a new trial. The government indicated that it was engaged in a process of examining evidence for

1 mitochondrial DNA for a period of time pre-dating the Court's order.
2 The request for further time was not opposed by defendant. On July
3 5, 2017, the Court granted the government's request for further time
4 to make it statement to the Court and specifically ordered the
5 government to respond by August 29, 2017.
6

7 The Speedy Trial Act, and specifically 18 U.S.C. § 3161(e),
8 states in relevant part:

9 If the defendant is to be tried again following an
10 appeal or collateral attack, the trial shall commence
11 within seventy days from the date the action occasioning
12 the retrial becomes final, except that the court retrying
13 the case may extend the period of retrial not to exceed one
14 hundred and eighty days from the date occasioning the
15 retrial becomes final if unavailability of witnesses or
16 other factors resulting from passage of time shall make
17 trial within seventy days impractical.

18 In addition, 18 U.S.C. § 3161(h)(6) states generally, upon a
19 motion by the government, that a period of delay of trial is
20 reasonable if the ends of justice served by taking such action
21 outweigh the best interest of public and the defendant in a speedy
22 trial. Factors for the Court to evaluate include whether "the case
23 is so unusual or so complex due to . . . the existence of novel
24 questions of fact . . . that it is unreasonable to expect adequate
25 preparation for pretrial proceedings or for the trial itself within
26 the time limits established by this section." 18 U.S.C.
27 § 3161(h)(7)(B)(ii).

28 The Court, therefore, makes the following findings:

The period of time from May 22, 2017 through August 29, 2017, is

1 "excludable time" within the meaning of the Speedy Trial Act, and 18
2 U.S.C. § 3161 et seq. Specifically, the Court finds that as a result
3 of the examination of forensic evidence for the presence of
4 mitochondrial DNA by the government, and the complexity of the
5 underlying facts in this case, it is unreasonable for the parties to
6 proceed to trial within the seventy-day period set-forth in the
7 Speedy Trial Act. Pursuant to 18 U.S.C. § 3161(e), because this case
8 arose from facts in 1986, and scientific techniques have advanced
9 since that time, the need to conduct further scientific examination
10 of forensic evidence is a factor for delay beyond the statutory
11 seventy-day time period. In addition, the Court finds that this case
12 is "so unusual" and "so complex" both factually and legally that it
13 is unreasonable to expect trial to proceed within the time limited
14 established in 18 U.S.C. § 3161, and for these reasons, the time
15 period of May 22, 2017 through August 29, 2017 is excludable.

16 As previously stated, by August 29, 2017, the government shall
17 report the findings of mitochondrial DNA analysis of hair evidence
18 and state whether it intends to proceed to jury trial in the matter,
19 and if the government intends to proceed to trial, the particular
20 charges on which the government intends to proceed.

21 SO ORDERED.

22 DATED: July 24, 2017



23 HONORABLE JOHN A. KRONSTADT
24 United States District Judge
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