

1 RANDY S. GROSSMAN
Acting United States Attorney
2 JOANNA M. CURTIS, CBN 203151
KEVIN J. BUTLER, CBN 329129
3 BILLY JOE MCLAIN, CBN 290682
Special Assistant U.S. Attorneys
4 PETER KO, CBN 191994
Assistant U.S. Attorney
5 Federal Office Building
880 Front Street, Room 6293
6 San Diego, CA 92101-8893
Tel.: (619) 546-7359
7 Email: peter.ko2@usdoj.gov

8 Attorneys for United States of America

9 UNITED STATES DISTRICT COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA)	No. 21CR2627-CAB
)	
12	Plaintiff,)	JOINT (1) DISCOVERY REPORT; AND
)	(2) MOTION TO CONTINUE MOTION
13	v.)	HEARING AND TRIAL SETTING
)	
14)	Date: Nov. 5, 2021
15	MATTHEW TAYLOR COLEMAN,)	Time: 10:30 a.m.
)	
16	Defendant.)	
)	

17
18 The United States of America and defendant MATTHEW TAYLOR
19 COLEMAN (1) submit the discovery report required by CrimLR
20 16.1.a, and (2) jointly move to continue the motion hearing and
21 trial setting from Nov. 5, 2021, 10:30 a.m. to a date and time
22 convenient to the court in May 2022.

23 1. Discovery

24 Coleman is charged with foreign first-degree murder of U.S.
25 nationals in violation of 18 U.S.C. 1119 and 1111. The parties
26 had a teleconference on Oct. 14, 2021, as required by Fed. R.
27
28

1 Crim. P. 16.1 and CrimLR 16.1.a. By that time, the prosecution
2 already had disclosed about 42.5 gigabytes of data that includes
3 reports by state and federal agencies, audio and video
4 recordings (including body camera recordings and recordings of
5 activity at primary and secondary inspection from the San Ysidro
6 Port of Entry), transcripts, photographs, subpoenaed records,
7 and legal pleadings. The discovery includes witness statements
8 that potentially could be Jencks/Rule 26.1 material which
9 otherwise need not be disclosed until after a witness's direct
10 examination at trial or a hearing.

11 A computer, two phones, and an iPad are being searched
12 pursuant to warrants. Instead of waiting until agents have
13 completed the searches and providing only data seized as
14 responsive to the warrants, a mirror image of the computer's
15 entire drive and the full Cellebrite downloads for the phones
16 and iPad will be provided to the defense by Nov. 5, 2021.

17 By that date, the United States also will provide
18 additional discovery consisting generally of cell site data,
19 Mexican law enforcement reports, photographs and recordings of
20 or from the area of the murders, jail recordings, and videos
21 from the Port of Entry.

22 This case does not involve an A-file or DEA lab reports.
23 Coleman's van is available for inspection upon request.

24 The prosecution will provide future discovery seized or
25 generated (e.g., reports of DNA or other lab analysis which is
26
27
28

1 ongoing) as part of the continuing investigation. Currently,
2 there are no discovery disputes.

3 2. Continuance

4 a. The Indictment in this case was filed on Sept. 8,
5 2021. Coleman first appeared in this district on Sept. 29, 2021.
6 The Speedy Trial Act, 18 U.S.C. 3161(c)(1), requires trial to
7 start within 70 non-excludable days from the later date.

8 b. Section 3161(h) excludes certain periods of time in
9 calculating the 70 days. That includes delay resulting from a
10 continuance if the court finds "the ends of justice served by
11 taking such action outweigh the best interest of the public and
12 the defendant in a speedy trial." 18 U.S.C. 3161(h)(7)(A). The
13 court must "set[] forth ... either orally or in writing, its
14 reasons" for the finding. *Id.* The court "shall consider" the
15 following factors, "among others":

16 (i) Whether the failure to grant such a
17 continuance in the proceeding would be likely to make
18 a continuation of such proceeding impossible, or
result in a miscarriage of justice.

19 (ii) Whether the case is so unusual or so
20 complex, due to the number of defendants, the nature
21 of the prosecution, or the existence of novel
22 questions of fact or law, that it is unreasonable to
expect adequate preparation for pretrial proceedings
or for the trial itself within the time limits
established by this section.

23 18 U.S.C. 3161(h)(7)(B). "No continuance under [this provision]
24 shall be granted because of general congestion of the court's
25 calendar, or lack of diligent preparation or failure to obtain
26
27
28

1 available witnesses on the part of the attorney for the
2 Government." 18 U.S.C. 3161(h)(7)(C).

3 c. The parties move to continue the motion hearing and
4 trial setting from Nov. 5, 2021, 10:30 a.m. to a date and time
5 convenient to the court in May 2022. The ends of justice served
6 by granting the requested continuance outweigh the best
7 interests of the public and the defendant in a speedy trial, for
8 the following reasons:

9
10 (1) Coleman is charged with two counts of foreign
11 first-degree murder of U.S. nationals. The alleged victims
12 were his 2-year-old son and 10-month-old daughter. The
13 complaint filed in 2:21-mj-3722 (C.D. Cal.) outlines the
allegations in more detail and is incorporated herein. The
charges in the indictment are statutorily eligible for the
death penalty.

14 (2) More time is needed before filing appropriate
15 motions and setting a trial date because of the amount of
16 discovery so far, the nature of the allegations, and the
17 need for the defense to investigate the offense and
18 circumstances. In addition, the Attorney General must
19 decide whether to seek the death penalty. Part of that
20 process includes opportunities for the defense to present
21 argument and information in mitigation to the United States
Attorney's Office and officials at the Department of
Justice. Before making those presentations, the defense
needs more time to fully investigate potentially mitigating
circumstances, including Coleman's mental health and
personal history. The defense estimates a thorough
investigation will take several months at least.

22 (3) The parties have exercised due diligence. For
23 reasons above, failure to grant the requested continuance
24 would deny counsel the reasonable time necessary for
25 effective preparation and result in a miscarriage of
26 justice. The case is also unusually complex because of the
27 nature of the prosecution, potential penalty, and potential
28 mental health defense. It is unreasonable to expect
adequate preparation for motions, pretrial proceedings, and

1 trial within the usual time limits of 18 U.S.C. 3161 et
2 seq.

3 (4) This is the first request for a continuance of
4 the motion hearing and trial setting in this case.

5 (5) Coleman is in custody.

6 (6) The parties agree the period of delay excluded
7 spans from the filing of this motion, 18 U.S.C.
8 3161(h)(1)(D), until the new date for the motion hearing
9 and trial setting.

10 DATED: October 26, 2021

11 Respectfully submitted,

12 RANDY S. GROSSMAN
13 Acting United States Attorney

14 s/Peter Ko

15 JOANNA M. CURTIS
16 KEVIN J. BUTLER
17 BILLY JOE MCLAIN
18 Special Assistant U.S. Attorneys

19 PETER KO
20 Assistant U.S. Attorney

21 s/Cuauhtemoc Ortega (w/authorization)

22 CUAUHTEMOC ORTEGA
23 Federal Public Defender

24 CHRISTY O'CONNOR
25 ELENA SADOWSKY
26 Deputy Federal Public Defenders

27 Counsel for Coleman
28