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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

11 CR 205 (AKH)

5 CLIVER ANTONIO ALCALA  
6 CORDONES,

7 Defendant.

8  
9 New York, N.Y.  
10 April 12, 2021  
11 10:30 a.m.

12 Before:

13 HON. ALVIN K. HELLERSTEIN,

14 District Judge

15 APPEARANCES

16 AUDREY STRAUSS  
17 Acting United States Attorney for the  
18 Southern District of New York

19 KYLE WIRSHBA  
20 Assistant United States Attorney

21 CESAR de CASTRO  
22 CRISTIAN FRANCOS  
23 Attorneys for Defendant

24 ALSO PRESENT: Nancy I. Adler, Spanish Interpreter  
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1 (Via teleconference)

2 THE DEPUTY CLERK: U.S. v. Cliver Antonio Alcala  
3 Cordones. Counsel, please state your appearance for the  
4 record.

5 MR. WIRSHBA: Good morning, your Honor. Kyle Wirshba  
6 for the government.

7 MR. de CASTRO: Good morning. Cesar de Castro and  
8 Cristian Francos for Mr. Alcala Cordones.

9 THE COURT: What are we doing today?

10 MR. WIRSHBA: Yes, your Honor. This is Kyle Wirshba  
11 for the government. Today we are discussing the progress on  
12 the case as we've moved forward, the discussions that the  
13 government and defense counsel have had, we can update the  
14 Court on the status of discovery, and then the parties are  
15 going to seek some additional time to continue to work through  
16 that discovery before setting any kind of schedule.

17 THE COURT: Why don't you give me a report where you  
18 are.

19 MR. WIRSHBA: Yes, your Honor, of course. The  
20 government has produced a significant amount of discovery to  
21 defense counsel, many gigabytes of electronic information. The  
22 government continues to produce discovery to the defendant, so  
23 we have been collecting, we've been working very closely with  
24 defense counsel, frankly, to collect those materials, and to  
25 get those materials into the hands of defense counsel in a

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1 format that is useful and productive for them. And the parties  
2 have also engaged in discussions about whether or not a  
3 possible pretrial disposition of this matter might be possible.

4 There is still is some discovery remaining in this  
5 case. We have alerted the defense to that discovery, and we  
6 have been working to collect it as expediently as possible.  
7 But it is my understanding, your Honor, after speaking with  
8 defense counsel, that the defendant requires additional time to  
9 continue to engage with that discovery, and therefore the  
10 parties think that an additional adjournment would be  
11 appropriate and helpful in this case.

12 THE COURT: How much adjournment do you require?

13 MR. WIRSHBA: Your Honor, I think if your Honor were  
14 to adjourn for 60 days, I think the parties could come back and  
15 give the Court an update as to where things stand. And at that  
16 point, the parties think that setting a motion schedule might  
17 be productive.

18 THE COURT: Mr. de Castro?

19 MR. de CASTRO: Good morning, Judge. Yeah, all of  
20 that is accurate from the government. They have produced an  
21 incredible amount of material, and we have been getting through  
22 it. There has been very few technical glitches, like I'm sure  
23 you all hear the time about problems, it's been pretty smooth.  
24 It's been coming in in volumes, but we are getting through it,  
25 and we've devoted a lot of time to getting through it. But I'm

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1 still not through it. It is just a lot of audio and things  
2 like that.

3 THE COURT: Are you and your colleagues agreeable to a  
4 60-day adjournment?

5 MR. de CASTRO: We are agreeable to that. The one  
6 issue I would sort of raise is, and the government and us had  
7 discussed it, is to the extent that the Court wanted to sort of  
8 at least get us in the trial queue, my understanding is we  
9 might be there. I don't want us to be in a situation where  
10 later down the road, because we need more time going through  
11 this, our potential trial date is pushed even farther out. I  
12 know trial dates are far out right now.

13 THE COURT: My strong policy is not to set cases for  
14 trial that are not ready for trial. When they're ready, I'll  
15 do my best to get you an early trial date.

16 MR. de CASTRO: Okay.

17 THE COURT: Can I, Mr. Wirshba, expect the government  
18 will have produced everything by 60 days?

19 MR. WIRSHBA: Your Honor, this is Kyle Wirshba for the  
20 government. The government will do its best to have produced  
21 everything in its possession in 60 days. As we've been  
22 discussing with defense counsel, there are actually certain --  
23 there are certain items that are not in the possession of the  
24 prosecution team that we are seeking to get for the defense in  
25 this particular case, and we have a lot less control over when

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1 we might be able to receive those materials. But all --

2 THE COURT: What kind of materials are there?

3 MR. WIRSHBA: It's -- I believe there are certain  
4 device extractions that may be relevant to the defense and  
5 certain other reports. The government is seeking to do that as  
6 quickly as possible. All I can say, your Honor, we will do our  
7 absolute very best to get those materials into the hands of  
8 defense within 60 days.

9 THE COURT: Defense satisfied with that  
10 representation?

11 MR. de CASTRO: Yes, Judge. I don't think it  
12 necessarily makes sense to go into super detail as to the  
13 materials. We are going back and forth with the government.

14 THE COURT: Can I expect the defense to state whatever  
15 motions it makes within 60 days along with a briefing schedule,  
16 and failing to do that would be a waiver of motions?

17 MR. de CASTRO: Yes, Judge.

18 THE COURT: We'll do that. We'll adjourn for 60 days,  
19 the precise date that Ms. Jones also give us in a moment, and  
20 exclude time until then so that the government can complete its  
21 production and defense counsel can thoroughly assess the case  
22 and counsel their clients as to how best to proceed and in the  
23 interest of justice.

24 There is such a motion, right, Mr. Wirshba?

25 MR. WIRSHBA: Yes, your Honor.

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1 THE DEPUTY CLERK: Is Mr. Cordones in Essex County?  
2 Where is he being held?

3 MR. WIRSHBA: Orange.

4 THE DEFENDANT: Putnam County.

5 THE DEPUTY CLERK: Thank you. June 7, is that good,  
6 at 9 a.m.?

7 MR. WIRSHBA: That's fine for the government, your  
8 Honor.

9 THE COURT: We'll adjourn. Time is excluded until  
10 June 7 at 9 a.m. Good-bye.

11 (Adjourned)

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