

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

UNITED STATES OF AMERICA

vs.

DAVID ZACHARY SCRUGGS

Case: 3:07CR00192-NBB-SAA

**DEFENDANT DAVID ZACHARY SCRUGGS'S  
MOTION FOR CONTINUANCE OF CRIMINAL CASE**

**COMES NOW**, Defendant David Zachary Scruggs (“Defendant”), by and through his undersigned attorneys, and respectfully moves this Court for a continuance of the trial date in the above-styled case for 90-120 days, or as otherwise convenient to the Court. Defendant respectfully requests this continuance to allow for effective preparation for trial in light of recent guilty pleas by Defendant’s co-defendants, and to protect Defendant’s right to fair trial after intensive publicity, some of it false and misleading, regarding pleas by Defendant’s co-defendants and Defendant’s alleged surrender of his law license.

**BACKGROUND**

On November 28, 2007, the government filed a six-count indictment against Defendant and his original co-defendants Richard F. Scruggs, Sidney A. Backstrom, Steven A. Patterson and Timothy R. Balducci. The indictment charged the defendants with criminal conspiracy in violation of 18 U.S.C. § 371; bribery of an agent of a state government in violation of 18 U.S.C. § 666(a)(2); and wire fraud in violation of 18 U.S.C. §§ 2, 1343 and 1346.

On December 4, 2007, Timothy R. Balducci entered a plea of guilty, and on January 10, 2008, Steven A. Patterson entered a plea of guilty.

On March 14, 2008, Richard F. Scruggs and Sidney A. Backstrom entered pleas of guilty.

Defendant's trial is set to commence on March 31, 2008.

### **ARGUMENT**

Defendant now moves for a continuance in this matter to allow sufficient time for preparation for trial in light of the very recent guilty pleas by Defendant's co-defendants, and to protect Defendant's right to a fair trial in the wake of intense media attention to the pleas in this case — much of it attended with false and misleading information.

Under the Speedy Trial Act, the Court has the discretion to grant a continuance where the “ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C.A. § 3161(h)(8)(A). In particular, the Court may grant a continuance where “the failure to [do so]...would deny counsel for the defendant[s]...the reasonable time necessary for effective preparation...,” 18 U.S.C.A. § 3161(h)(8)(B)(iv). The Court may also grant a continuance where “the failure to grant such a continuance in the proceeding would...result in a miscarriage of justice.” 18 U.S.C.A. § 3161(h)(8)(B)(i).

A continuance is needed in this case to allow Defendant's counsel to adequately prepare his defense in light of the recent pleas of his co-defendants. Until the end of last week, Defendant's counsel were preparing the defense under the assumption that the trial would involve multiple defendants with varying levels of alleged culpability. Undersigned counsel entered their appearance only 8 weeks ago, and will now be

responsible for carrying the full load of the trial. Moreover, the very recent pleas of co-defendants have significantly changed the strategic and tactical realities for Defendant and his counsel, and additional time is needed to adequately prepare the defense in light of these new realities.

In addition, a continuance is needed to protect the Defendant's right to a fair trial after the extraordinary media coverage of his co-defendants' pleas on March 14, 2008. Both pleas garnered extraordinary media attention within Mississippi. Over 230 news stories regarding the pleas have been published between March 14 and today's date in Mississippi newspapers alone.

Most significantly, based on the summonses the court sent out, members of the pool have been notified of their selection and they will, undoubtedly, have a heightened interest in this case. Many in the jury pool now know that Defendant's co-defendants pleaded guilty in this case, making them susceptible to the inappropriate inference that the co-defendants' pleas indicate guilt on the part of Defendant. This is particularly true for any potential jurors that read the inaccurate report in a March 14, 2008 article from Jackson's *Clarion-Ledger* which indicated that Defendant agreed to surrender his law license as part of Richard F. Scruggs's plea agreement. A continuance is warranted to give time for the media coverage in this matter to subside and the sensational and misleading stories in this case to fade from the selection landscape.

### **CONCLUSION**

WHEREFORE, Defendant respectfully requests that the Court grant his motion for continuance and continue the trial date in this case from March 31, 2008 for 90-120 days to a date convenient to the Court.

Respectfully submitted, this the 19<sup>th</sup> day of March, 2008.

Dated: March 19, 2008

By: /s/ Todd Graves  
Todd P. Graves (*Pro Hac Vice*)  
Nathan F. Garrett (*Pro Hac Vice*)  
GRAVES BARTLE & MARCUS, LLC  
1100 Main St., Suite 2600  
Kansas City, Missouri 64105  
Telephone: (816) 256-3052  
Facsimile: (816) 817-0780

*For Defendant*  
*David Zachary Scruggs*

**CERTIFICATE OF SERVICE**

I, Todd Graves, do hereby certify that on the 19<sup>th</sup> day of March, 2008, I have electronically filed the foregoing Defendant David Zachary Scruggs's Motion for Continuance of Criminal Case using the ECF System, which sent notification of such filing to Thomas W. Dawson, Assistant United States Attorney, Robert H. Norman, Assistant United States Attorney, David Anthony Sanders, Assistant United States Attorney, Frank W. Trapp, J. Rhea Tannehill, Jr., and John W. Kecker.

/s/ Todd P. Graves

Todd P. Graves