

10:22:25 1 THE COURT: Let the record show we're here
10:22:26 2 regarding Case Number 15-40030.01. It's a case entitled
10:22:35 3 United States of America versus John T Booker. The
10:22:38 4 parties please enter their appearance.

10:22:40 5 MR. MATTIVI: Good morning, Your Honor.
10:22:42 6 Tony Mattivi and Dave Smith for the government.

10:22:46 7 MR. REDMOND: Defendant personally with
10:22:47 8 counsel Kirk Redmond, Your Honor.

10:22:48 9 THE COURT: Mr. Booker, we're here for a
10:22:50 10 status hearing. I would let you know that there's been
10:22:52 11 a motion to continue the status conference which I've
10:22:57 12 all ready reviewed. At this time, though, Mr. Redmond,
10:23:01 13 if there's anything you want to highlight or add, please
10:23:04 14 do so.

10:23:05 15 MR. REDMOND: Could we approach, Your Honor?

10:23:06 16 THE COURT: Yes.

10:23:07 17 (Proceedings held at the bench, outside the
10:23:14 18 hearing of open court.)

10:23:14 19 MR. REDMOND: It's okay with me if
10:23:16 20 Mr. Booker comes.

10:23:18 21 THE MARSHAL: You want him up there, Judge?
10:23:20 22 It's up to you.

10:23:22 23 THE COURT: Does Mr. Booker know why you're
10:23:24 24 coming forward?

10:23:24 25 MR. REDMOND: Could I have just a moment,

10:23:26 1 Your Honor?

10:23:27 2 THE COURT: Yeah.

10:23:46 3 (Proceedings held at the bench, outside the
10:23:52 4 hearing of open court.)

10:23:52 5 MR. REDMOND: Thank you, Your Honor. I've
10:23:53 6 discussed with Mr. Booker exactly what's going to be
10:23:55 7 happening at the bench conference. He's fine with
10:23:58 8 staying at counsel table. Essentially, there's just a
10:24:01 9 couple of dates that I wanted to inform the court about,
10:24:03 10 sort of the progress of the case, how it's gone so far.
10:24:06 11 I understand the motion that I filed was fairly generic.
10:24:09 12 In this case, we retained a forensic expert to do a
10:24:13 13 psychological evaluation on Mr. Booker on the 28th of
10:24:16 14 July of this year. That expert evaluated Mr. Booker for
10:24:19 15 the first time on September 14th, and for the second
10:24:22 16 time on November 16th. Meanwhile, we continued to
10:24:26 17 collect background records on Mr. Booker through the
10:24:29 18 month of September. She reviewed all those records, and
10:24:31 19 after the second evaluation was able to put together a
10:24:35 20 report which I received this Monday. The purpose of the
10:24:40 21 continuance is -- in the past, has been to permit us to
10:24:44 22 finish the psychiatric evaluation process, which is now
10:24:47 23 done and has -- has a report to show for it. We also
10:24:53 24 expect to receive today the final disk of discovery in
10:24:57 25 the case. Especially given the problems, I think the

10:25:02 1 government's been providing the discovery just as fast
10:25:05 2 as they possibly could. It's going to take me a couple
10:25:07 3 of days to review that, and I think we'll be in a
10:25:11 4 position to enter into plea negotiations fairly soon
10:25:14 5 thereafter. What we would request is a status
10:25:17 6 conference to be set in two weeks. My expectation is
10:25:19 7 that that status conference will not be conducted,
10:25:21 8 because prior to the time that that status will occur,
10:25:26 9 we'll file a notice of intent to plead guilty, and I
10:25:29 10 personally discussed with Mr. Booker his rights under
10:25:32 11 the Speedy Trial Act. He understands he has a right to
10:25:35 12 70 days. We've never been interested in that happening,
10:25:37 13 and the -- and we believe the ends of justice will be
10:25:40 14 met by the court giving us time to conduct the
10:25:44 15 evaluation and review all the discovery so we could
10:25:46 16 represent Mr. Booker as effectively as possible.

10:25:49 17 THE COURT: Is he able to answer questions
10:25:52 18 if I were to ask him if he's aware that by granting the
10:25:55 19 motion, it is going to extend the time under the speedy
10:25:59 20 trial time that he's presently under?

10:26:01 21 MR. REDMOND: Yes.

10:26:02 22 THE COURT: And would he say then that also,
10:26:04 23 that's what he wants the court to do?

10:26:06 24 MR. REDMOND: He will.

10:26:08 25 THE COURT: Anything from the government

10:26:09 1 regarding this?

10:26:10 2 MR. MATTIVI: No, Judge. Mr. Redmond has
10:26:12 3 been in close communication with us during the whole
10:26:15 4 process. He's just putting on the record the result of
10:26:18 5 communications we've had all the way along, so we don't
10:26:20 6 have any objection to any of that.

10:26:22 7 THE COURT: If there's nothing else, in
10:26:24 8 regards to the motion to continue, court's reviewed it,
10:26:27 9 and also the court will incorporate your statements,
10:26:32 10 arguments here in the courtroom today, and based on
10:26:35 11 that, the court is going to find a good basis to grant
10:26:39 12 the motion. It does appear that defendant --
10:26:43 13 defendant's counsel has been working diligently to try
10:26:46 14 to not only review all the discovery, but my
10:26:52 15 understanding is that the last piece of discovery is
10:26:55 16 going to be given to him shortly, but also that there
10:26:59 17 was a question involving a possible issue involving a
10:27:04 18 mental evaluation, that that took time to complete, but
10:27:09 19 that now, that also has been completed, and at this
10:27:13 20 point, defendant's request to give him additional time
10:27:17 21 now to review that as well as discuss whatever options
10:27:22 22 defendant may want to consider as relates to his case
10:27:25 23 sounds reasonable to the court. Court would make also a
10:27:28 24 finding that the speedy trial time attached to this case
10:27:33 25 should be stayed from today's date 'til our next court

10:27:36 1 date for those reasons all ready mentioned on the
10:27:41 2 record. The court would find not tolling the speedy
10:27:43 3 trial time during this time period would be a
10:27:46 4 miscarriage of justice, and also not allow defendant to
10:27:51 5 be adequately represented, and be adequately informed
10:27:54 6 of, again, the discovery as well as his options as
10:27:58 7 relates to this case. You said two weeks?

10:28:03 8 MR. REDMOND: Two weeks, yes, Your Honor.

10:28:05 9 THE COURT: Let me check our schedule.

10:28:22 10 January 6th?

10:28:22 11 MR. REDMOND: Given the Christmas holiday,
10:28:24 12 that makes complete sense to us. It gives the parties a
10:28:27 13 little more time to firm things up.

10:28:31 14 MR. MATTIVI: No objection to the 6th, Your
10:28:33 15 Honor.

10:28:33 16 THE COURT: January 6th at --

10:28:35 17 MS. SPEGAL: Status conference, 10:00 AM.

10:28:38 18 MR. REDMOND: Sure, thank you.

10:28:39 19 THE COURT: You talk to the defendant
10:28:41 20 regarding that week?

10:28:45 21 MR. REDMOND: Briefly, yes, probably a good
10:28:46 22 idea.

10:28:48 23 (Defendant conferring with attorney off the
10:28:52 24 record away from bench.)

10:29:56 25 MR. REDMOND: That's fine, Your Honor, and

10:29:58 1 he's prepared to answer any questions you have about
10:30:00 2 speedy trial.

10:30:00 3 THE COURT: All right. At this point then,
10:30:02 4 if you'll please return to your tables.

10:30:04 5 MR. MATTIVI: Thank you, Judge.

10:30:06 6 (Proceedings continued in open court.)

10:30:18 7 THE COURT: Mr. Booker, in regards to the
10:30:20 8 motion to continue the status conference, it's my
10:30:23 9 understanding that your attorney, Mr. Redmond, has all
10:30:26 10 ready gone over that motion with you. Is that correct?

10:30:29 11 THE DEFENDANT: Yes.

10:30:30 12 THE COURT: Also, it's my understanding
10:30:33 13 that, again, based on what's set out in the motion,
10:30:37 14 you've been informed that by the court granting that
10:30:40 15 motion, it is going to stop the running of your speedy
10:30:43 16 trial time that's attached to your case from today's
10:30:47 17 date until our next court date. Did you discuss that
10:30:50 18 with Mr. Redmond?

10:30:51 19 THE DEFENDANT: Yes.

10:30:52 20 THE COURT: And is that what you want the
10:30:53 21 court to do?

10:30:54 22 THE DEFENDANT: Yes, I'm fine with that.

10:30:56 23 THE COURT: Has anyone forced you into doing
10:30:58 24 that?

10:30:58 25 THE DEFENDANT: No.

10:30:59 1 THE COURT: Are you telling the court you're
10:31:01 2 doing that of your own free will?

10:31:02 3 THE DEFENDANT: Yes.

10:31:03 4 THE COURT: At this time, again, the court
10:31:05 5 is going to find a good basis as set out on the record
10:31:09 6 for the court to grant the motion to continue the status
10:31:12 7 conference. Court also would find for those same
10:31:16 8 reasons that the speedy trial time attached to the case
10:31:19 9 should be tolled, will not run from today's date until
10:31:23 10 our next court date. The court would also find at this
10:31:28 11 time, again, for reasons all ready mentioned, the court
10:31:32 12 believes that it's a valid basis for the court to stop
10:31:35 13 the running of the -- toll the running of the speedy
10:31:38 14 trial time, as well as the court would make an ends of
10:31:40 15 justice finding, and finds the ends of justice outweigh
10:31:43 16 the interests of defendant and the public from the
10:31:45 17 speedy trial time running during this time period,
10:31:49 18 again, for the reasons all ready mentioned. Our next
10:31:53 19 court date is January 6th, 2016 at 10:00 AM, 10 o'clock
10:32:02 20 in the morning. Anything else from the government?

10:32:06 21 MR. MATTIVI: Nothing further from the
10:32:08 22 government, Your Honor. Thank you.

10:32:09 23 THE COURT: From defendant?

10:32:10 24 MR. REDMOND: No, sir, thank you.

10:32:11 25 THE COURT: If there's nothing else, this

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1 hearing's adjourned. Thank you.

10:34:55

2 (Whereupon court took a recess.)

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C E R T I F I C A T E

I, Nancy Moroney Wiss, a Certified Shorthand Reporter and the regularly appointed, qualified and acting official reporter of the United States District Court for the District of Kansas, do hereby certify that as such official reporter, I was present at and reported in machine shorthand the above and foregoing proceedings.

I further certify that the foregoing transcript, consisting of 10 typewritten pages, is a full, true, and correct reproduction of my shorthand notes as reflected by this transcript.

SIGNED July 20, 2016.

S/ _____
Nancy Moroney Wiss, CSR, CM, FCRR