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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,
Plaintiff,
vs.
KENNETH MANZANARES,
Defendant.

Case No. 1:17-cr-00010-TMB-DMS
**NON-OPPOSED MOTION TO
CONTINUE TRIAL**

A period of excludable delay under 18 U.S.C. § 3161(h)(7)(a) and (b) will occur should the requested continuance be granted. The Speedy Trial Act calculation, as of the date of the filing of this motion, shows that the 70-day mark would fall on December 31, 2018, leaving 220 days remaining from this date before trial must begin pursuant to the Speedy Trial Act.

Defendant Kenneth Manzanares, through counsel, moves this court for an order continuing the trial date from November 5, 2018, to May 19, 2019. Additionally, counsel have filed separately a proposed amended case scheduling order consistent with this motion.

The government, through Assistant United States Attorney Jack Schmidt, does not oppose this motion or the proposed amended case scheduling order.

This motion is to provide adequate time for Mr. Manzanares to prepare. Discovery is voluminous and ongoing, and the parties are working together to make sure discovery is complete. Moreover, Mr. Manzanares needs the additional time to complete his own investigation.

I. PROCEDURAL HISTORY

Mr. Manzanares was indicted on August 16, 2017. The indictment alleges: On or about July 25, 2017, in the District of Alaska, within the special maritime and territorial jurisdiction of the United States, on board the M/V Emerald Princess, a vessel within the territorial seas of the United States, and on a voyage having a scheduled departure from and arrival in United States, the defendant, KENNETH MANZANARES, a national of the United States, willfully, deliberately, maliciously, and with premeditation and malice aforethought, did unlawfully kill Kristy Manzanares, a national of the United States. (Docket No.14).

On September 9, 2017, the defense filed a Non-Opposed Motion to Declare Case Complex, which the Court granted on September 18, 2017. (Docket Nos. 26, 30). The Court granted the motion on September 18, 2017. (9/18/2017 Minute Entry). A status conference was scheduled for September 22, 2017, at which the Court directed the parties to confer and submit a proposed case scheduling order.

On November 11, 2017, the parties submitted a proposed case scheduling order, which set out a trial date of November 5, 2018 and deadlines consistent with that trial date (Docket No. 37-1), which this Court signed. (Docket No. 50).

II. LEGAL AND FACTUAL BASIS FOR MOTION

Mr. Manzanares's mental state at the time of the offense is likely a critical fact for either a resolution or a trial; and the defense is ethically and legally obligated to conduct its own investigation into their client's background for possible mental defenses. "[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland v. Washington*, 466 U.S. 674, 691, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). This duty includes investigation into a potential mental health defense. *See e.g., Benmore v. Chappell*, 788 F.3d 1151, 1167 (2015); *Medina v. Chappell*, 781 F.3d 1076, 1094-1095 (2015), *Jennings v. Woodford*, 290 F.3d 1006, 1015—16 (9th Cir. 2002) (citing *Seidel v. Merkle*, 146 F.3d 750, 755—57 (9th Cir. 1998)) ("We have found deficient performance where defense counsel was 'on notice about [his client's] mental health and drug abuse problems,' yet failed to investigate a potential mental state defense.").

In an attempt to comply with its legal obligation, counsel have sought the assistance of experts. The experts are out-of-state and are required to obtain the appropriate licenses to practice in Alaska. The experts have taken the necessary steps toward accomplishing this objective; however, the administrative licensure process is time-consuming. For instance, counsel has learned that the licensing application requires the experts to gather and submit to the licensing boards' relevant information about their current licenses, along with an application that the Alaska board reviews for acceptance periodically. Although the process has begun, it will not be completed in a

reasonable time before the current trial date and/or deadlines set out in the current case scheduling order.

Based on the foregoing, counsel respectfully requests this Court to grant this motion and continue the trial date to May 19, 2019.

RESPECTFULLY SUBMITTED this 25th day of May 2018.

Respectfully submitted,

/s/ Rich Curtner

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Certificate of Service:

I hereby certify that I electronically filed the foregoing, and any attachments, with the Clerk of court for the U.S. District Court for the District of Alaska by using the district's CM/ECF system on May 25, 2018. All participants in this case are registered CM/ECF users and will be served by the district's CM/ECF system.

s/ Jamie McGrady

**IN THE UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

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Defendant.

Case No. 1:17-cr-00010-TMB-DMS

Proposed **ORDER**

After due consideration, and for good cause shown, the defendant's Non-Opposed Motion to Continue Trial, the motion is GRANTED.

IT IS ORDERED that a hearing on the motion is scheduled for _____, 2018, at _____ a.m./p.m., in Juneau, Alaska.

DATED this _____ day of May, 2018.

Timothy M. Burgess, Chief District Judge
UNITED STATES DISTRICT COURT