

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 08 CR 1010
	)	
ROD R. BLAGOJEVICH,	)	Chief Judge James F. Holderman
JOHN HARRIS	)	

**GOVERNMENT’S UNOPPOSED FIRST MOTION FOR AN EXTENSION OF TIME TO RETURN INDICTMENT PURSUANT TO 18 U.S.C. § 3161(h)**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully moves this Court, pursuant to 18 U.S.C. § 3161(h)(8), for a 90-day extension of time, to and including April 7, 2009, in which to seek the return of an indictment against the defendants, for the following reasons:

1. This investigation was initiated in approximately 2003, and involves multiple potential defendants. Two individuals, defendants Rod R. Blagojevich and John Harris, were charged by way of a criminal complaint on December 9, 2008, with: (a) conspiring to defraud the citizens of Illinois of their right to his honest services, as well as conspiring to obtain money and property by fraud, in violation of the mail and wire fraud statutes, 18 U.S.C. §§ 1341, 1343, 1346, and 1349; and (b) corruptly soliciting and demanding the firing of Chicago Tribune editorial board members who had been critical of Blagojevich, in exchange for the awarding of millions of dollars in financial assistance from the State of Illinois, 18 U.S.C. § 666(a)(1)(B) and § 2.

2. Part of this investigation utilized Court-authorized Title III intercepts over multiple phones and in particular locations. In the most recent set of Title III intercepts, thousands of phone calls were intercepted between late-October 2008 and early-December 2008. In addition, this investigation has used confidential witnesses. In addition, multiple witnesses have come forward in recent weeks to discuss their knowledge of criminal activity in relation to the ongoing investigation.

3. A number of factors have led to the government's request for an extension and the length of the extension being sought. One factor that affects the length of the requested extension is that federal holidays have limited the dates and times that the government will be able to present evidence to the Grand Jury. The federal grand juries are not sitting during the week of December 22<sup>nd</sup> (Christmas week) or the week of December 29<sup>th</sup> (New Years Day week). The remaining factors that have led to the government's request for an extension are stated in the Attachment hereto, which the government respectfully requests be placed under seal. The government is requesting that this Attachment be sealed so as not to compromise its ongoing investigation and so as not to reveal matters occurring before the Grand Jury.

4. Given the length of time that this investigation has been ongoing (more than 5 years), the number of intercepted calls involved, and the additional reasons stated in the government's sealed Attachment, the thirty days available to the government pursuant to Title 18, United States Code, Section 3161(b) in which to file an indictment or information against a defendant based on his arrest will not be sufficient. The United States estimates that a 90-day extension from the current expiration date of January 7, 2009, to and including

April 7, 2009, will be sufficient time within which to return an indictment in this matter. The government does not presently plan to seek another extension of time to indict in this case.

5. Among the factors identified by Congress as relevant to the determination whether time should be extended for indictment are those set forth in 18 U.S.C. § 3161(h)(8)(B), which provide in relevant part:

Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution... that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section; [or]

Whether, in case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.

Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

18 U.S.C. §§ 3161(h)(8)(B)(ii), (iii), and (iv).

6. The government respectfully submits that a 90-day continuance is warranted in this case pursuant to the forgoing provisions. The government has been conducting a diligent and thorough investigation in this case, but the investigation includes multiple defendants and potential defendants as well as thousands of intercepted phone calls, and additional factors warranting an extension of time (as cited in the government's Attachment) exist. The government cannot complete its investigation and appropriately conclude the investigation within the time allowed under Section 3161(b) of the Speedy Trial Act as

currently extended.

7. Following telephone calls and/or meetings over the past week, counsel for both Blagojevich and Harris have represented that they do not object to this motion.

WHEREFORE, the United States respectfully requests a 90-day extension of time from January 7, 2009, to and including April 7, 2009, in which to seek an indictment in this case.

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

By: s/ Reid Schar  
REID SCHAR  
CHRIS NIEWOEHNER  
CARRIE HAMILTON  
Assistant United States Attorney  
United States Attorney's Office  
219 South Dearborn Street  
Chicago, Illinois 60604  
(312) 353-8897

Dated: December 31, 2008

**CERTIFICATE OF SERVICE**

The undersigned Assistant United States Attorney hereby certifies that the following documents:

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were served on December 31, 2008, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

s/ Reid Schar

REID SCHAR

Assistant United States Attorney

219 South Dearborn Street

Chicago, Illinois

(312) 353-8897