

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

U.S. DISTRICT COURT
DISTRICT OF IDAHO

APR 26 2004

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

AMY RENEE FLUCKINGER,)
aka AMY BROWN)

Defendant.)

CRIM. No. 03-217-E-BLW

ORDER ALLOWING
WITHDRAWAL OF ATTORNEY
AND FINDING EXCLUDABLE
TIME

The Court has before it a motion to withdraw and a motion to continue trial filed by Defendant Fluckinger. The motion to withdraw, and supporting affidavit, establishes that the defendant and her present counsel cannot work together. The Court will therefore grant that motion and direct the Clerk to appoint new counsel.

The defendant has also filed a motion to continue the trial, on the assumption that she would be getting new counsel who would need time to prepare. Trial was

set for April 26, 2004, and the Court finds that a continuance will be necessary in order to give new counsel a chance to prepare a defense. Defense counsel requests a continuance of at least sixty days, and the Court finds that a continuance until July 6, 2004, would be reasonable given the complexities of this case.

Under all these circumstances, the Court finds that a continuance is needed to give new defense counsel an opportunity to provide an effective defense. Thus, a continuance is warranted under 18 U.S.C. §3161(h)(8)(B)(iv) which authorizes a finding of excludable time when the refusal to grant a continuance would “deny counsel for the defendant ... the reasonable time necessary for effective preparation” Under these circumstances, the interests of justice in allowing the defense time for effective preparation outweighs the Defendant’s and the public’s interest in a speedy trial under 18 U.S.C. §3161(h)(8)(A).

The statements of defense counsel establish that the trial should be reset on July 6, 2004, at 1:30 p.m. The Court finds that the period of time between the present trial date and the new trial date is excludable time under the Speedy Trial Act. Accordingly,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion for continuance and motion to allow withdrawal of counsel (docket nos. unassigned) filed by Defendant be, and the same are hereby, GRANTED.

IT IS FURTHER ORDERED, that the Clerk of the Court shall take the necessary steps to appoint new counsel for the defendant.

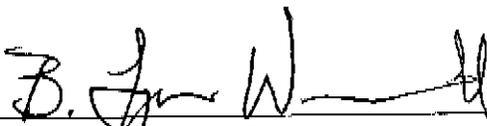
IT IS FURTHER ORDERED, that the present trial date be VACATED, and that a new trial be set for **July 6, 2004, at 1:30 p.m.** in the Federal Courthouse in Pocatello, Idaho.

IT IS FURTHER ORDERED, that the period of time between the prior trial date and the new trial date be deemed EXCLUDABLE TIME under the Speedy Trial Act, 18 U.S.C. §3161(h)(8)(A).

IT IS FURTHER ORDERED, that the pretrial conference shall be held on June 24, 2004, at 10:00 a.m. by telephone with the Government to initiate the call and the defendant need not be present.

IT IS FURTHER ORDERED, that the Defendant shall file all pretrial motions on or before **June 1, 2004.**

Dated this 26th day of April, 2004.



B. LYNN WINMILL
CHIEF JUDGE, UNITED STATES DISTRICT COURT

United States District Court
for the
District of Idaho
April 28, 2004

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 4:03-cr-00217

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

Michael Joseph Fica, Esq. 1-208-478-4175
US ATTORNEY
801 E Sherman
Pocatello, ID 83201

Kevin C Peterson, Esq. 1-208-782-0348
PO Box 1387
Blackfoot, ID 83221

U.S. Marshal
HAND DELIVERED

Probation
HAND DELIVERED

Chief Judge B. Lynn Winmill
 Judge Edward J. Lodge
 Chief Magistrate Judge Larry M. Boyle
 Magistrate Judge Mikel H. Williams

Visiting Judges:
 Judge David O. Carter
 Judge John C. Coughenour
 Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date: 4-28-04

BY: *DX*
(Deputy Clerk)