

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
 :
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 v. :
 :
 DAVID STOCKMAN, J. MICHAEL :
 STEPP, DAVID COSGROVE, PAUL :
 BARNABA, :
 :
 Defendants. :
 :
-----X

07 Cr. 220 (BSJ)

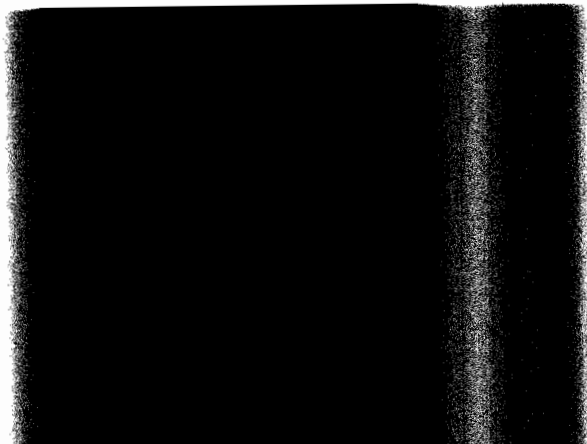
Order

USDC SDNY
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DATE FILED: 7/16/08

BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

By letter dated July 14, 2008, the Government requested that the Court exclude time pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(1)(F) and (h)(8)(A), for the period between July 15, 2008 and July 24, 2008. The Court's most-recent prior exclusion encompassed the period from April 17, 2008 to July 15, 2008 to allow Defendants time to review discovery and decide whether motions will be filed. The Court DENIES the instant application as moot, as the Speedy Trial "clock" was tolled upon the filing of Defendant Barnaba's motion on April 3, 2008; additionally, Defendant Stockman's letter brief of July 11, 2008 further triggers the "clock."

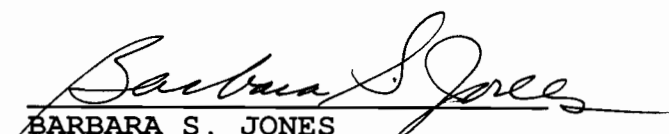
Section 3161(h)(1)(F) provides that "delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of,



such motion" "shall be excluded in computing the time" for purposes of the Speedy Trial Act. "[S]ubsection (F) 'exclude[s] from the Speedy Trial Act's 70-day limitation all time between the filing of a motion and the conclusion of the hearing on that motion, whether or not a delay in holding that hearing is "reasonably necessary.'" " United States v. Douglas, 81 F.3d 324, 327 (2d Cir. 1996) (quoting Henderson v. United States, 476 U.S. 321, 330 (1986)). Defendant Barnaba filed a motion to dismiss the indictment with prejudice on April 3, 2008; Defendant Stockman submitted a letter brief on July 11, 2008 requesting relief that the Court deems a pretrial motion; both motions are currently sub judice. Thus, the exclusion mandated by § 3161(h)(1)(F) is in effect.

As the Speedy Trial "clock" has been tolled since April 3, 2008, the Government's instant application is moot, and further applications are thus unnecessary until the Court's disposition of both Barnaba's and Stockman's motions.

SO ORDERED:


BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
July 16, 2008