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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Case No. 3:16-cr-00154-MO

Plaintiff,

SECOND UNOPPOSED MOTION TO
CONTINUE TRIAL DATE

vs.

DEVONTRE JAMES THOMAS,

Defendant.

The defendant, Devontre Thomas, through his attorney, Ruben L. Iñiguez, moves the Court to enter an Order continuing the trial date in the above-captioned case for 30 days (*i.e.*, until October 13, 2016). A two-day jury trial is currently scheduled for September 13, 2016. This motion constitutes Mr. Thomas' second request to continue the

trial date. The government, through Assistant U.S. Attorney Jennifer J. Martin, does not oppose this motion.

PROCEDURAL BACKGROUND

On April 13, 2016, the federal government filed a single-count misdemeanor Information charging Mr. Thomas with possession of marijuana, in violation of 21 U.S.C. § 844(a). ECF 1. The government specifically alleges that on March 24, 2015, Mr. Thomas paid a fellow student at the Chemawa Indian School in Salem, Oregon, \$20 for approximately one gram of marijuana. *Id.*

Three months ago, on May 5, 2016, Mr. Thomas made his initial appearance in U.S. District Court in Portland. ECF 6. Magistrate Judge John V. Acosta granted Mr. Thomas' request for appointment of counsel, denied the government's request to require a drug and alcohol assessment as a condition of Mr. Thomas' release, ordered that Mr. Thomas be released on his own recognizance, and scheduled a two-day jury trial for July 12, 2016. *Id.*

On July 8, 2016, Mr. Thomas appeared with counsel before Chief U.S. District Court Judge Michael W. Mosman. ECF 12. Although the hearing was initially scheduled with the expectation that Mr. Thomas would plead guilty under the terms of a plea offer from the government, Mr. Thomas instead elected to forego the offer and exercise his right to a jury trial. *Id.* Mr. Thomas waived his right to a speedy trial, and the Court reset the jury trial for September 13, 2016. *Id.*

Mr. Thomas has been gainfully employed since his graduation from high school on May 13, 2016. He has remained out of custody and in full compliance with all laws since his initial appearance three months ago.

MOTION

On August 3, 2016, Mr. Thomas entered into an Agreement for Pretrial Diversion with the government. Under the terms of the Agreement, the government will dismiss the pending misdemeanor Information if, for a period of 60 days, Mr. Thomas: (1) obeys all laws (federal, state, and local); and (2) attends school or works regularly at a lawful occupation.

A continuance of the current trial date for 30 days (*i.e.*, until October 13, 2016) is necessary to afford Mr. Thomas a full and fair opportunity to demonstrate to the government that the charge against him should be dismissed in the interests of justice. A brief continuance is also necessary to provide the parties with adequate time to complete the discovery process.¹ The defense team also requires additional time to complete independent investigation, including witness interviews and document retrieval, and to retain and consult with expert witnesses. Finally, defense counsel needs additional time to complete legal research, file appropriate pretrial motions, and otherwise prepare for trial.

¹ On July 25, 2016, Mr. Thomas requested that the government provide additional discovery materials. On August 3, the government produced a total of five additional documents. Further materials should be forthcoming soon.

Defense counsel has spoken with Mr. Thomas, explained the bases supporting his request for a continuance, and the rights he has under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A). Mr. Thomas knowingly and voluntarily waives his rights under the Speedy Trial Act. He requests that the Court continue his current trial date for 30 days (*i.e.*, until October 13, 2016).

RESPECTFULLY SUBMITTED this 4th day of August, 2016.

/s/ Ruben L. Iñiguez

Ruben L. Iñiguez

Attorney for Defendant