

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

**Criminal No. 16-20641**

v.

**Honorable Gershwin A. Drain  
Honorable R. Steven Whalen**

FUTOSHI HIGASHIDA

Defendant.

**STIPULATION AND PROPOSED ORDER CONTINUING TRIAL DATE  
AND EXCLUDING TIME UNDER THE SPEEDY TRIAL ACT**

Defendant Futoshi Higashida was arraigned on September 23, 2016, and trial is currently scheduled for January 17, 2017. The parties jointly request that the current trial date be continued until March 21, 2017 and jointly agree to the exclusion of an additional 60 days pursuant to the Speedy Trial Act.<sup>1</sup> The

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<sup>1</sup> The Defendant believes that excluding time under the Speedy Trial Act is necessary because the Government has already admitted that they believe Mikio Katsumaru, a citizen and resident of Japan, will not appear in these proceedings. *See* Dkt. 16 at 2. By joining this stipulation, the government does not waive the argument that the time period for trial set forth in the Speedy Trial Act does not commence until the co-defendant, Mikio Katsumaru, has appeared before the Court. *See Henderson v. United States*, 476 U.S. 321, 323 n.2 (1986) (computing speedy trial time commencing from date of last codefendant's arraignment because "[a]ll defendants who are joined for trial generally fall within the speedy trial computation of the latest codefendant"); *United States v. Cope*, 312 F.3d 757, 776-77 (6th Cir. 2002). The government nevertheless believes that, out of an abundance of caution, the exclusion of time is appropriate.

exclusion will allow the Defendant adequate time to investigate this matter, review discovery, confer with his counsel, and provide “reasonable time necessary for effective preparation” taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv). Accordingly, the ends of justice served by excluding an additional 60 days from the Speedy Trial Act calculation outweigh the interests of the public and the Defendant in a speedy trial, in accordance with 18 U.S.C. § 3161(h)(7)(A).

**IT IS SO STIPULATED.**

Dated: October 27, 2016

s/ Niall E. Lynch  
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*Counsel for Defendant Futoshi Higashida*

Dated: October 27, 2016

s/ with the consent of Andre M. Geverola  
Andre M. Geverola  
Antitrust Division  
U.S. Department of Justice  
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*Counsel for the United States of America*

**IT IS SO ORDERED.**

Dated: November 1, 2016

/s/Gershwin A Drain  
**Honorable Gershwin A. Drain**  
**United States District Judge**

**CERTIFICATE OF SERVICE**

I certify that on October 27, 2016, I caused the foregoing paper to be served via e-mail to Andre M. Geverola.

Dated: October 27, 2016

s/ Niall E. Lynch

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