

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 22-CR-124 (3) (NEB/TNL)

Plaintiff,

ORDER ON MOTION FOR SEVERANCE

v.

MAHAD IBRAHIM (3),

Defendant.

Trial in this eight-defendant case is set to begin in three days, on April 22, 2024. Due to unforeseen circumstances, Mahad Ibrahim's counsel is now indisputably and absolutely unavailable for trial, for reasons set forth in sealed documents with the Court. Ibrahim moves to sever his case from the remaining seven defendants so that the trial can go forward as scheduled. (ECF No. 462.)¹ The government and all defendants either support or take no position on the motion. (ECF Nos. 465–472.) Due to the unexpected and indisputable nature of counsel's unavailability, the right of Defendant Ibrahim to be represented by counsel of his choice, the absence of prejudice to any remaining defendant, and the interests of justice, the Court grants the motion.

¹ Ibrahim moved to file under seal. (ECF No. 463.) The Court grants the motion.

As noted in the Court's affirmance of the Magistrate Judge's order denying severance of several defendants earlier in the case, a trial court may order severance under Rule 14 if it appears that the defendant or government is prejudiced by joinder. *United States v. Jones*, 880 F.2d 55, 60 (8th Cir. 1989); (See ECF No. 343). A district court "should grant a severance under Rule 14 only if there is a serious risk that a joint trial would compromise a specific trial right of one of the defendants, or prevent the jury from making a reliable judgment about guilt or innocence." *Zafiro v. United States*, 506 U.S. 534, 539 (1993). A severance motion lies within the sound discretion of the trial court. *United States v. Robaina*, 39 F.3d 858, 861 (8th Cir. 1994).

Because trial is days away, Ibrahim does not have time to retain experienced counsel who can get up to speed on the case before trial starts. Under the Sixth Amendment, Ibrahim has a right to counsel of his choosing, and forcing him to go forward under these circumstances would prejudice Ibrahim and risk infringing his constitutional rights.

The Court considered the only obvious alternative—continuing the trial so that all eight defendants could be tried together. A continuance is not viable, practical, or in the interests of justice. First, no party has requested it; instead, all parties appear to agree that the trial should continue without Defendant Ibrahim, so that Ibrahim's case can be rescheduled to a date when his current counsel (or new counsel) is available. Second, this case was indicted in May 2022, and the Court must balance speedy trial rights under the

Sixth Amendment and the Speedy Trial Act. Third, the practical complexities and the impact on the justice system are significant. This case has been designated as complex under the Speedy Trial Act. (*See* ECF No. 125.) The April 22 date has been set for several months. The parties predict that the trial will last six weeks, and the combined witness lists include more than 500 potential witnesses. Witnesses have been subpoenaed, more jurors than usual have been summoned, and the remaining defendants are prepared for trial. A continuance would mean significant delay for these defendants as well as for the multiple additional defendants indicted in similar cases. (*See* Case Nos. 22-CR-222; 22-CR-223; 22-CR-224; 22-CR-225; 22-CR-226; 22-CR-277; 22-CR-293; 23-CR-80; 23-CR-81; 24-CR-13; 24-CR-15.)

Accordingly, severance is the best path forward. Consolidation for an April 22 trial would prejudice Defendant Ibrahim, and the only alternative relief is not in the interests of justice. Therefore, the motion to sever (ECF No. 462) and motion to seal (ECF No. 463) are GRANTED. The Court will enter a separate order regarding the speedy trial calculation for Defendant Ibrahim. As to all other defendants, trial will proceed Monday, April 22, as scheduled.

Dated: April 19, 2024

BY THE COURT:

s/Nancy E. Brasel

Nancy E. Brasel

United States District Judge