

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

15-CR-227-A

RICHARD PETIX,

Defendant.

NOTICE OF LACK OF SUPPLEMENTAL BRIEFING

On October 18, 2016, the parties appeared before the Honorable Hugh B. Scott for a status conference on the defendant's pretrial motions. Assistant United States Attorney Wei Xiang appeared on behalf of the government; the defendant appeared personally and by attorneys Stephen M. Leonardo and Matthew R. Lembke.

At that time, the defendant requested the opportunity to file supplemental briefing on his motion (Dkt. 23) to dismiss Count Two of the Superseding Indictment (Dkt. 16). The Court set a filing deadline of October 26, 2016. Dkt. 30. The Court also gave the government until November 7, 2016, to respond, at which time the Court will consider the matter to be under advisement. See id.

The supplemental briefing deadline of October 26, 2016, appears to have passed without the filing of any submissions by the defendant. Consequently, there exists nothing for the government to respond to, and, therefore, the government will not be filing any response on or before November 7, 2016. To the extent that the Court originally would have

considered the matter to be deemed submitted on the date that the government's response would have been due, the government respectfully notes that the matter should now be considered to be under advisement, for purposes of the Speedy Trial Act at 18 U.S.C. § 3161(h)(1)(H), as of October 27, 2016.

Should the Court consider all remaining pretrial motions to be under advisement as of October 27, 2016, it is the government's understanding that this 30-day advisement period will expire on November 25, 2016. By the government's calculation, as of November 25, 2016, zero days of Speedy Trial Act time will have elapsed and seventy (70) days remain in the period within which trial must commence.

DATED: Buffalo, New York, October 27, 2016.

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