

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:07CR195
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	
)	UNITED STATES OF AMERICA'S
SCOTT D. HARVANEK,)	MOTION TO CONTINUE SENTENCING
)	HEARING FOR 90 DAYS
Defendant.)	

Now comes the United States of America, by its counsel, Gregory A. White, United States Attorney, and Robert W. Kern, Assistant U.S. Attorney, and respectfully moves the Court to continue the Sentencing Hearing presently scheduled for Thursday, February 28, 2008, for a period of at least 90 days.

Defendant's plea agreement contemplates the defendant's cooperation and assistance in connection with one or more criminal investigations currently pending in judicial districts outside of the Northern District of Ohio. Since pleading guilty to the charges in this case on April 30, 2007, the defendant continues to cooperate with government counsel from the

Computer Crimes and Intellectual Property Section within the Criminal Division of the Department of Justice, and with law enforcement officials assigned to various related criminal investigations and cases pending in other federal judicial districts.

Undersigned counsel has been informed that the defendant's cooperation and assistance is expected to continue beyond the date of the present sentencing hearing scheduled for February 28, 2008. Specifically, it is anticipated that defendant will be called by the government to testify in the case of *United States v. Dove*, Case No. 2:07CR015 (WD VA)(Judge James P. Jones), the trial of which has now been continued until April 30, 2008, in Big Stone Gap, VA.

While no commitment has been made by the government regarding the filing of a motion for a downward departure, pursuant to Section 5K1.1 of the Sentencing Guidelines in this case, the defendant's continued cooperation and assistance in the related matters is likely to result in the filing of a 5K1.1 motion, and accordingly the government respectfully requests that the Court continue the sentencing date for a period of at least 90 days to permit the defendant's cooperation to continue, and to provide sufficient time for government counsel to evaluate whether a 5K1.1 motion will be filed in this case, and if so, to what extent a downward departure will be sought.

Edwin Vargas, counsel for defendant, Scott Harvanek, joins in this request.

Accordingly, the United States respectfully requests that the Sentencing Hearing presently scheduled for Thursday, February 28, 2008, be continued for a period of at least 90 days.

Respectfully submitted,

GREGORY A. WHITE
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2008, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Robert W. Kern
Robert W. Kern
Assistant U.S. Attorney