

Eugene G. Iredale: SBN 75292  
**IREDALE & YOO, APC**  
105 West F Street, Fourth Floor  
San Diego, CA 92101-6036  
Telephone: (619) 233-1525  
Fax: (619) 233-3221  
email: [egiredale@iredalelaw.com](mailto:egiredale@iredalelaw.com)

**Attorney for Defendant**  
**WAIEL YOUSIF ANTON**

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**  
**(Hon. Gonzalo P. Curiel)**

UNITED STATES OF  
AMERICA,

Plaintiff,

v.

WAIEL YOUSIF ANTON (5),

Defendant.

CASE NO. 3:19-cr-04768-GPC

**MEMORANDUM OF POINTS AND**  
**AUTHORITIES IN SUPPORT OF**  
**MOTION FOR SEVERANCE**

**Date: March 13, 2020**

**Time: 11:30 a.m.**

**Courtroom: 2D**

**I.**  
**Basis for Motion**

Defendant Will Anton moves to sever his case from that of his co-defendants in order to preserve his right to a speedy trial under the Speedy Trial Act (18 U.S.C. § 3161 *et seq.*) and the Speedy Trial Provision of the Sixth Amendment. Mr. Anton is one of five named defendants in this case. Two of the five defendants, Leo Joseph Hamel and Fred Magana, have pled guilty and will not be before the Court for trial. The lead defendant, Morad Marco Garmo, is charged in Count 1 with engaging in the business of dealing in firearms without a license; in Counts 2 through 12 with making false statements in the acquisition of

1 firearms; in Counts 16 and 17 with making false statements in violation of 18  
2 U.S.C. § 1001; in Count 19 with aiding and abetting the distribution of marijuana;  
3 and in Counts 20 through 22 with use of a communications facility to further a  
4 drug crime.

5 Giovanni Vincenzo Tilotta is charged in Count 1 with aiding and abetting  
6 defendant Marco Garmo, and in Count 13 with conducting a firearms transaction  
7 in violation of state law.

8 Mr. Anton is charged in Count 1 with aiding and abetting defendant Garmo  
9 in engaging in the business of dealing in firearms without a license, and in Count  
10 18 with the attempted obstruction of justice.

11 Rule 14 of the Federal Rules of Criminal Procedure provides in relevant  
12 part as follows:

13 “(a) Relief. If the joinder of offenses or defendants in an  
14 indictment, an information, or a consolidation for trial  
15 appears to prejudice a defendant or the government, the  
16 court may order separate trials of counts, sever the  
17 defendants’ trials, or provide any other relief that justice  
18 requires.”

19 The Speedy Trial Act, in 18 U.S.C. § 3161(h)(7), permits the exclusion of  
20 time for a defendant whose case is joined for trial with a co-defendant as to whom  
21 the time for trial has not run and no motion for severance been granted. The  
22 effect of this provision makes the exclusion of time for one defendant applicable  
23 to all. *United States v. Piteo*, 726 F.2d 50, 52 (2d Cir. 1983); *United States v.*  
24 *Campbell*, 706 F.2d 1138 (11th Cir. 1983).

25 In this case, defendant Anton believes the trial of his severed case on the  
26 two counts in which he is named would consume two days or less of this Court’s  
27 time. Defendant Anton is prepared to enter into stipulations which would  
28 substantially shorten any trial time by agreeing that the government could prove  
the vast majority of the allegations set forth in Count 1, and that as to that count,

1 the issue to be tried before the jury would be not whether defendant Garmo  
2 engaged in the sale of firearms without a license, but rather whether Mr. Anton  
3 aided and abetted that crime with the requisite criminal intent. The trial as to the  
4 alleged attempted obstruction of justice set forth in Count 18 would consume less  
5 than an hour and a half of court time. The evidence on this count will be largely  
6 undisputed and will be in the form of recorded conversations and texts of Mr.  
7 Anton to the undercover agent.

8 Because Mr. Anton is joined for trial with defendant Marco Garmo, his  
9 statutory and Constitutional right to a speedy trial is held hostage to the period of  
10 delay that is appropriate for Mr. Garmo. As such, because Mr. Garmo requires  
11 adequate time to permit his counsel to review the voluminous discovery and to  
12 prepare for trial, Mr. Anton's speedy trial right is subordinate to Mr. Garmo's  
13 right to be adequately prepared. In order to preserve his right to a speedy trial,  
14 Mr. Anton makes this motion to sever his case from that of Mr. Garmo. Mr.  
15 Anton understands that Rule 8 of the Federal Rules of Criminal Procedure  
16 permits the joint trial of defendants who are engaged in allegedly joint criminal  
17 transactions. The policy of Rule 8 is to promote judicial economy and the  
18 efficient use of the jury's time. In this case, the joinder of Mr. Anton together  
19 with the provisions of § 3161(a)(7) results in his inability to obtain a speedy trial,  
20 even though his minimal involvement in the instant case, coupled with the  
21 disparity in the evidence, would permit the rapid adjudication of his case without  
22 prejudice to the government. A severed trial would preserve his rights.

23 Mr. Anton makes this motion to request that the Court sever his case from  
24 that of Mr. Garmo and Mr. Tilotta so that he may proceed to trial within a  
25 reasonable time. Based on the evidence applicable to his case, a severance would  
26 permit Mr. Anton to assert his speedy trial rights without being prejudiced by the  
27 joinder to Mr. Garmo. By timely moving for severance, Mr. Anton has preserved  
28 his right to seek a speedy trial in this case. *See United States v. Payden* 620 F.

1 Supp. 1426 (S.D.N.Y. 1985); *United States v. Mitchell* 723 F.2d 1040 (1st Cir.  
2 1983).

3  
4  
5 DATED: February 28, 2020

Respectfully submitted,

**IREDALE AND YOO, APC**

/s/ Eugene G. Iredale

**EUGENE G. IREDALE**

Attorney for Defendant

WAIEL YOUSIF ANTON