

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
	)	Case No. 1:06CR00001
v.	)	
	)	<b>OPINION AND ORDER</b>
<b>CARLOS DAVID CARO,</b>	)	
	)	By: James P. Jones
Defendant.	)	Chief United States District Judge
	)	

*John L. Brownlee, United States Attorney, and Anthony P. Giorno, Assistant United States Attorney, Roanoke, Virginia, for United States of America; James A. Simmons, Nashville, Tennessee, and Steven J. Kalista, Big Stone Gap, Virginia, for Defendant.*

In this capital case, the jury has recommended the death penalty after having convicted the defendant of first degree murder. After the verdict was returned on February 13, 2007, the court fixed sentencing without objection for March 9, 2007. The defendant has now moved to extend the time for filing a motion for new trial to April 3, 2007, and has moved that the sentencing date be accordingly continued.

Pursuant to Federal Rule of Criminal Procedure 33, a motion for a new trial based on any reason other than newly discovered evidence, must be filed within seven days after the verdict. The court may extend the time for good cause. Fed. R. Crim. P. 45(b)(1).

Counsel for the defendant thoroughly investigated this case and have vigorously represented the defendant. Dozens of motions were filed and carefully considered and decided, many by both the magistrate judge and the undersigned district judge, by oral or written opinion. The facts of the case were not complicated. The defendant admitted killing the victim and offered no evidence during the guilt/innocence phase of the trial. Because of the extensive pretrial motions and briefing, there were a minimum of objections to evidence presented during either that phase or the sentencing phase.

In addition to a relatively uncomplicated record, daily uncertified trial transcripts were provided to counsel during most of the trial.

Based on these facts, I will grant the motion to extend the time for filing a motion for a new trial, but not for the length of time requested.

It is **ORDERED** that the Motion to Extend Time is GRANTED and the time for filing a motion for a new trial is extended to March 16, 2007. The sentencing date of the defendant previously fixed is vacated and counsel is directed to promptly consult with the court's scheduler in order to fix a new date for a sentencing to be held no later than April 6, 2007.

ENTER: February 20, 2007

/s/ JAMES P. JONES  
Chief United States District Judge