

MELINDA HAAG (CABN 132612)  
United States Attorney

MIRANDA KANE (CABN 150630)  
Chief, Criminal Division

MATTHEW A. PARRELLA (NYBN 2040855)  
HANLEY CHEW (CABN 189985)  
Assistant United States Attorneys

150 Almaden Blvd., 9<sup>th</sup> Floor  
San Jose, California 95113  
Telephone: (408) 535-5042  
FAX: (408) 535-5066  
[matthew.parrella@usdoj.gov](mailto:matthew.parrella@usdoj.gov)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEITH DOWNEY, )  
 )  
Defendant. )  
 )  
 )  
 )  
 )  
 )

No. 11-00471-DLJ

**[PROPOSED] ORDER SETTING  
DEFENDANT'S APPEARANCE FOR  
NOVEMBER 1, 2011 AND EXCLUDING  
TIME FROM SEPTEMBER 1, 2011 TO  
NOVEMBER 1, 2011, FROM  
CALCULATIONS UNDER THE  
SPEEDY TRIAL ACT (18 U.S.C. § 3161)**

On September 1, 2011, defendant Keith Downey ("defendant") made his initial appearance before United States Magistrate Judge Paul S. Grewal. John Hamasaki, Esq. represented the defendant. The United States was represented by Assistant United States Attorneys Matthew A. Parrella and Hanley Chew.

The parties met and conferred concerning the terms for defendant's pretrial release. Specifically, the parties discussed and reached an agreement concerning the terms of defendant's use of computers and other electronic devices and access to the Internet. The Court stated that it

[PROPOSED] ORDER  
11-00471-DLJ

1 would adopt the agreement by the parties. Therefore, the Court orders the existing terms for the  
2 defendant's pretrial release remain unchanged except as follows:

3 (1) Defendant shall not participate in or access any Internet Relay Chats (IRC);

4 (2) Defendant shall not use or access the Twitter website or service;

5 (3) Defendant shall identify to Pretrial Services all computers and/or electronic  
6 devices that he requests to use which could be used to access either IRC or Twitter or the  
7 Internet except those computers and/or electronic devices in office of his attorney for the conduct  
8 of his defense;

9 (4) Defendant shall not delete any Internet history, registry information, cookies, or  
10 other tracking information on the computers and/or electronic devices that he identifies except  
11 those computers and/or electronic devices in office of his attorney for the conduct of his defense;

12 (5) Pretrial Services will have the right to inspect and examine the contents of all of  
13 the computers and/or electronic devices designated by the defendant after providing defendant  
14 with reasonable notice except those computers and/or electronic devices in office of his attorney  
15 for the conduct of his defense to ensure that the defendant has not used any IRC or Twitter  
16 services, and has not deleted any Internet history, registry information, cookies or other tracking  
17 information;

18 (6) The inspection and examination of the computers and/or electronic devices shall  
19 not include personal communications, such as communications with counsel, family members  
20 and friends otherwise not precluded as co-defendants or known members of the Anonymous,  
21 Lulzsec, or Anti-Sec groups; activities related to school or work; or financial activity;

22 (7) Defendant shall be present during the examination of his computers and/or  
23 electronic devices, and the computer and/or electronic devices shall not be kept for inspection  
24 and examination beyond any appointment for such inspection and examination;

25 (8) Nothing in this Order shall be construed to limit the authority of Pretrial Services  
26 to request leave of the Court to either extend the period of examination for defendant's  
27 computers and/or electronic devices or examine the computers and/or electronic devices outside  
28 of the presence of the defendant.

1 (9) Defendant shall not communicate with any other defendants in the above-  
captioned case except in the physical or virtual presence of his counsel;

2 (10) Defendant shall not communicate with any individuals that he knows to be  
3 members of the Anonymous, Lulzsec, or Anti-Sec groups;

4 (11) Defendant may use the internet in the home for the purpose of performing  
5 maintenance and service on customer's computers as part of his work with Focus Digital, but  
6 must maintain a log of all customer's computers;

7 (12) All other restrictions apply to any customer's computers connected to the Internet  
8 in defendant's home; and

9 (13) Travel for the defendant shall be limited to the Northern District of California..

10 The Court ordered the parties to appear before the Honorable D. Lowell Jensen on  
11 November 1, 2011 at 9:00 a.m. as the next appearance. Given that amount of discovery in this  
12 case, the number of defendant and the need of defense counsel for additional time to investigate  
13 the facts of the case, the parties requested that the Court enter an exclusion of time from  
14 calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from September 1,  
15 2011 through November 1, 2011. The parties also requested that, given the voluminous  
16 discovery, complexity of the issues and large number of defendants, the Court designate this case  
17 as complex pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii).

18 Therefore, for good cause shown, the Court finds that: (1) the defendant understands and  
19 agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161,  
20 from September 1, 2011 through November 1, 2011 based upon the need for the defense counsel  
21 to investigate further the facts of the present case, and evaluate further possible defenses and  
22 motions available to the defendant; (2) the exclusion of time is necessary for effective  
23 preparation of the defense and is in the defendant's best interests; and (3) the ends of justice are  
24 served by excluding from calculations the period from September 1, 2011 through November 1,  
25 2011.

26 Accordingly, the Court orders that next appearance in this case shall be November 1,  
27 2011 before this Court and the time from September 1, 2011 through November 1, 2011 be  
28

1 excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161. The Court also  
2 ordered that this case be designated as complex pursuant to U.S.C. § 3161(h)(7)(B)(ii).

3 **IT IS SO ORDERED.**

4 DATED: September \_\_, 2011.

5  
6 HONORABLE PAUL S. GREWAL  
7 United States Magistrate Judge  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28