

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

ROBERT GIESWEIN,

Defendant.

Crim. Action No. 21-24-1 (EGS)

CONSENT MOTION TO CONTINUE DEADLINE FOR MOTIONS AND
RESPONSES, AND FOR ENTRY OF PROPOSED
ORDER ON TRIAL DEADLINES

The United States of America, through undersigned counsel and on behalf of both parties, hereby requests that the Court modify its January 19 Minute Entry to permit the parties more time to file motions new motions relating to the Superseding Indictment and *motions in limine*, extend the briefing schedule for currently pending motions, continue the presently scheduled February 24, 2022 motions hearing to April 11, 2022, and that the Court impose other trial-related deadlines.¹

1. On January 14, 2022, the grand jury returned a Superseding Indictment in this prosecution arising from the events at the United States Capitol on January 6, 2021. ECF No. 91.

¹ The parties had previously moved this Court to modify the January 19, 2022 Minute Order and to extend the deadline for filing new motions and motions *in limine*. ECF No. 98. The Court has not yet ruled on that motion. This request includes and supersedes the requests the parties made in ECF No. 98.

2. At a hearing on January 19, the Court rescheduled the trial; it is now set to begin on April 20. The Court also ordered that any supplements to prior motions or new motions were to be filed by February 4, 2022, and responses and replies were to be filed on February 11 and 14 respectively. The Court further ordered that the Court would take up all of these motions on February 24, 2022. January 19, 2022 Minute Entry.

3. On February 4, 2022, the defense filed a supplement to its Motion to Transfer Venue. *See* ECF Nos. 64, 101. The government has requested, and the defense consents, to additional time for the government to respond to that motion. With the consent of the defense, the government proposes the following briefing schedule for the Motion to Transfer Venue:

- Government Responses shall be filed no later than February 25, 2022;
and
- Any replies shall be filed no later than March 11, 2022.

4. Additionally, as noted in ECF No. 98, the parties agree that new charges in the Superseding indictment, and ongoing review of voluminous discovery, require further consideration before a next round of motions are filed. Further, some issues arising from the new indictment might be capable of resolution without the filing of motions if the parties have further time to confer. For example, lack of particularity in new counts might be resolved with agreement on a bill of particulars.

5. Accordingly, the parties jointly request that the Court permit them additional time to consider and file new motions pursuant to Rule 12(b)(3) of the Rules of Criminal Procedure, and motions *in limine* concerning evidence they know the opposing party intends to introduce at trial, and to address those motions during a hearing closer to trial, along with the currently outstanding motions.²

6. Having learned that the Court has some availability the week of April 11, and determined that counsel for both parties are also generally available that week, the parties propose the following schedule:

Motions Hearing	Week of April 11, 2022, the exact date to be selected by the Court
Replies	Two weeks prior to hearing
Responses	Three weeks prior to hearing
New Motions	Five weeks prior to hearing ³

² Regardless, neither party intends to object to the other's filing *motions in limine* as they become aware of the opposing party's intent to offer particular evidence closer to trial. At the January 19, 2022 hearing, the Court agreed that parties cannot be expected to anticipate and object to every potential exhibit until exhibit lists are filed.

³ The parties jointly request that the response and reply to the defendant's Motion to Dismiss Counts Two and Four of the Superseding Indictment, ECF No. 100, proceed along this schedule, *i.e.*, even though that motion has already been filed, responses are due three weeks prior to the hearing and responses be due three weeks prior to the hearing.

7. Section VIII of the proposed order filed with this motion contemplates a new schedule (tailored to the Court's calendar). It also sets out other pretrial deadlines the parties propose the Court impose.⁴

8. For these reasons, and in light of the entire record, the parties jointly respectfully request that the Court enter the proposed order filed herewith.

9. Undersigned counsel has provided a copy of this motion and the attached proposed order to counsel for Mr. Gieswein, who indicated that the government may file it as a consent motion.

Respectfully submitted on February 11, 2022.

Respectfully submitted,

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⁴ The parties previously submitted a version of this order, at ECF No. 98 and 98-1. In light of the requests in this motion, the parties withdraw the request that the Court enter that order.