

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 21-cr-00083-TNM
)	
BRANDON FELLOWS,)	
)	
Defendant)	
)	

DEFENDANT BRANDON FELLOW'S MOTION TO CONTINUE TRIAL

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Attorney for Defendant

NOW COMES Defendant Brandon Fellows by and through his “Stand-By Counsel,” William L. Shipley, Esq., and respectfully requests this Honorable Court to Continue the trial currently scheduled for August 26, 2023.

To date, Defendant Fellows has yet to receive complete access to discovery materials and copies of docketed materials that have been sent to both by the undersigned counsel and Government Counsel.

As this Court is aware, on June 15, 2023, Defendant Fellows was transported from FCI Lewisburg back to Washington D.C. Department of Correction (“DOC”). Since the move both Government Counsel and undersigned counsel have had to resend trial materials, including discovery materials to Defendant Fellows. As of the date of this Motion, undersigned counsel has not been able to confirm what materials have been received by the facility, what materials have been delivered to Fellows, what materials are yet to be delivered, and any estimate timeline for such delivery – all as set forth in more detail below.

The following is the timeline of both undersigned and Government counsel’s efforts to get all materials to Defendant Fellows.

1. Government counsel sent Discovery Set 1 (“DS1”) on June 27, 2023.

This material includes – based on unsigned counsel’s understanding – videos, photos, and other case specific materials relating to Defendant Fellows.

2. Defendant Fellows was not given phone or email privileges at DOC for purposes of communicating with undersigned counsel until July 2, 2023, even though he had been at the DOC facility for more than two weeks by

that point, having been moved from FCI Lewisburg on or around June 19, 2023.

3. Hard copy documentary discovery materials had been sent by undersigned counsel to Fellows at FCI Lewisburg on or about April 5 and May 31, 2023. Those materials had not been delivered to Fellows as of June 19, 2023, when he was transferred to DOC, and Lewisburg returned those materials to undersigned counsel.
4. The inability of undersigned counsel to transfer video evidence to Fellows at Lewisburg, and the facilities rules that allowed such evidence to come only from the Government, was communicated to this Court during the status conference on April 11, 2023. The extent to which the Government was actually been able to deliver video discovery to Fellows prior to his June transfer to DOC is not known to counsel.
5. The extent to which Fellows was allowed to take materials with him from Lewisburg to DOC as part of his personal property is also now known but counsel, but it is believed that little or no legal materials accompanied him based on limited contact that has been possible since his transfer.
6. On July 3, 2023, undersigned counsel was instructed by DOC on the current procedures for sending discovery and other legal materials to Fellows.
7. Undersigned sent separate mailings of discovery materials and Pretrial Motions previously filed by the Government and needing a response from Fellows on July 5, 2023, pursuant to the instructions given. These were the same materials that had been sent to FCI Lewisburg on multiple

occasions, returned for unexplained failures to comply with Lewisburg policies, and eventually returned again because they arrived after Fellows had been transferred to DOC.

8. Government counsel sent Discovery Set 2 (“DS2”) on July 14, 2023.
9. Fellows reported to counsel that he received DS1 from the Government on July 10, 2023. Fellows reported that he received one set of materials from undersigned counsel – the hard copy discovery materials -- on July 13, 2023.

Defendant Fellows has been out of contact with undersigned counsel since July 13, 2023, other than a comment on July 14 that he had not received DS2 from the Government, nor the previously filed pretrial motions which were rejected twice by FCI Lewisburg, and are now at DOC but apparently not yet delivered to Fellows.

During the status hearing on April 11, 2023, and previously, this Court advised Defendant Fellows of the potential difficulties that might be encountered by a defendant representing himself while detained.

But the manner in which Fellows ability to prepare for trial has been obstructed by the facilities where he has been housed, the USMS moving him from Virginia to Pennsylvania, and now back to DOC, without his personal belongings and legal papers, and the continuing inability of the facilities to simply deliver mailed materials to him in a timely manner, are complications that could not have been anticipated. Notwithstanding anything that might have gone on in the past, the fact is that Fellows ability to prepare to defend himself at trial has been compromised by what APPEARS to be an orchestrated

campaign by officials against whom he has made numerous complaints during his time in pretrial detention.

His inability to timely file responsive pleadings on issues pending before the Court is completely the result of the disruptions that have lasted for more than 90 days with regard to counsel's continuing efforts to deliver materials to him according to the procedures dictated by the facilities.

Further, on or about July 11, 2023, an issue arose in the housing unit at DOC where Fellows is located. That incident is reported to have landed 14 individuals in administrative segregation. Undersigned counsel has not been able to verify if Defendant Fellows was among this group, but communication with Defendant Fellows – relatively frequent up to July 10 – has ceased almost entirely since that date, with only brief messages being sent confirming or denying receipt of materials.

Undersigned counsel is filing this motion on behalf of Defendant Fellows due to the uncertainty over the past 3-4 weeks, the failure of discovery materials from both undersigned counsel and the Government to reach him timely, and the cessation of substantive communication with him for no known reason after July 10, 2023.

Due to issues concerning Defendant Fellows' access to discovery and pretrial materials necessary to prepare his defense, his sudden inability to contact or consult with undersigned counsel with regard to such preparation, and his inability to review and respond to pretrial motions because of the failure of those materials to reach him just prior to and then following his unannounced move from FCI Lewisburg to DOC, this Court should continue

the scheduled trial date until a future date to be determined after consultation with Fellows and counsel for the Government.

Dated: July 17, 2023

Respectfully submitted,

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