

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA )  
 )  
 v. ) Criminal No. 1:21-cr-00046-RDM  
 )  
 GARY WILSON, )  
 BRADY KNOWLTON, and )  
 PATRICK MONTGOMERY, )  
 )  
 *Defendants.* )

**DEFENDANTS' MOTION FOR LEAVE TO LATE FILE A RESPONSE TO THE  
GOVERNMENT'S MOTION IN LIMINE TO PRECLUDE FIRST AMENDMENT  
DEFENSE, EVIDENCE, OR ARGUMENT**

Gary Wilson, Brady Knowlton, and Patrick Montgomery, by and through their undersigned counsel, respectfully submit the following Motion for Leave to Late File a Response to the Government's Motion in Limine to Preclude First Amendment Defense, Evidence, or Argument, *see* Dkt. 136, and request to incorporate the arguments set forth in Defendants' Response to the Government's Motion in Limine to Preclude Entrapment Related Defenses and Arguments and Evidence about Alleged Law Enforcement Inaction, *see* Dkt. 133, in support thereof.

**BACKGROUND**

1. On February 9, 2023, the Court entered a Minute Order directing the parties to file dispositive motions on or before June 19, 2023. *See* Minute Order, Feb. 9, 2023.
2. On March 23, 2023, David Benowitz entered his appearance on behalf of Mr. Wilson. *See* Dkt. 130.
3. On March 31, 2023, Amy C. Collins entered her appearance on behalf of Mr. Wilson. *See* Dkt. 131.

4. On May 4, 2023, the government filed a Motion in Limine to Preclude Entrapment Related Defenses. *See* Dkt. 132.

5. On May 24, 2023, defense counsel filed a Response to the Government's Motion in Limine to Preclude Entrapment Related Defenses and Arguments and Evidence about Alleged Law Enforcement Inaction. *See* Dkt. 133.

6. On June 16, 2023, the government filed a Motion in Limine to Preclude First Amendment Defense, Evidence, or Argument. *See* Dkt. 136.

7. On June 20, 2023, defense counsel jointly filed a Motion to Extend Deadline to File Motions Pursuant to FRCP 12(b)(3), as Mr. Montgomery's counsel moved to withdraw and Mr. Montgomery's new counsel would require time to review discovery and confer with other defense counsel prior to filing or joining any dispositive motion. *See* Dkt. 138; *see also* Dkt. 137.

8. On June 21, 2023, the Court entered a Minute Order holding defense counsel's June 20, 2023 Motion in abeyance. *See* Minute Order, Jun. 21, 2023.

9. Mr. Montgomery's new counsel, John M. Pierce, has since entered his appearance. *See* Dkt. 142.

10. On June 29, 2023, the Court entered a Minute Order setting a Status Conference for July 7, 2023. *See* Minute Order, Jun. 29, 2023.

11. Mr. Pierce still requires time to review the discovery before responding or joining a response to the government's pending motions.

12. Mr. Wilson's counsel, who entered their appearances in late-March, *see* Dkt. 130; Dkt. 131, are still coordinating with the government to obtain certain discovery, some of which counsel believe pertains to arguments Mr. Wilson plans to advance in his motion in limine responses and other filings.

## DISCUSSION

Pursuant to Local Civil Rule 47(b), a party must file a response within fourteen (14) days from the date of service unless otherwise directed by the Court. On June 16, 2023, the government filed a Motion in Limine to Preclude First Amendment Defense, Evidence, or Argument. *See* Dkt. 136. The Court has not yet entered a scheduling order setting the deadlines for motions other than dispositive motions. *See* Minute Order, February 9, 2023.

Defense counsel jointly request that this Court grant defense counsel leave to late file response(s) to the government's Motion in Limine to Preclude First Amendment Defense, Evidence, or Argument until a date agreed upon by the parties and the Court is set by the Court. In addition to the fact that the government's Motion in Limine does not advance arguments ripe for a response,<sup>1</sup> *see* Dkt. 133, Mr. Montgomery's counsel and Mr. Wilson's counsel require time to adequately prepare for responses to the pending motion(s) in limine.

If the Court subsequently orders the defendants to then respond to the government's Motion in Limine or otherwise requires the defendants to proffer further evidence for this Court to weigh the applicability of their defense, the defendants request that this Court grant them leave to permit them to do so both under seal and *ex parte*. *See United States v. Carpenter*, 923 F.3d 1172, 1178 (9th Cir. 2019) ("A defendant may proffer a duress defense *ex parte* and under seal upon a showing of a 'compelling reason' for doing so.").

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<sup>1</sup> The defendants request that the Court allow them to incorporate the arguments set forth in their Response to the Government's Motion in Limine to Preclude Entrapment Related Defenses and Arguments and Evidence about Alleged Law Enforcement Inaction, *see* Dkt. 133.

## CONCLUSION

In light of the above, the defendants respectfully request leave to late file a Response to the Government's Motion in Limine to Preclude First Amendment Defense, Evidence, or Argument and to incorporate herein in the arguments set forth in Defendants' Response to the Government's Motion in Limine to Preclude Entrapment Related Defenses and Arguments and Evidence about Alleged Law Enforcement Inaction, *see* Dkt. 133.

Respectfully submitted,

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/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of June 2023, I have served this Motion upon all parties in this matter through the CM/ECF system.

\_\_\_\_\_/s/\_\_\_\_\_  
Amy C. Collins