

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Criminal No. 21-cr-259-TSC
	:	
MARK K. PONDER	:	
	:	
Defendant.	:	

JOINT MOTION TO CONTINUE TRIAL DATE

The United States of America and the Defendant jointly move the Court to vacate the currently scheduled trial date of January 7, 2021, to vacate the deadlines in the Pre-Trial Conference Order issued on July 30, 2021, and to schedule a status hearing at which the parties may select a new trial date and discuss revised dates for providing pre-trial materials to the Court. The parties rely on the following in support of this motion:

On January 6, 2021, a large number of people gathered at the United States Capitol building and grounds and participated in a violent riot which disrupted the certification of the Electoral College vote in the 2020 Presidential Election. On that date, a substantial portion of the Capitol building and grounds were restricted, meaning that members of the public could not lawfully be present within the restricted area. Some of the individuals present overran police barricades and engaged in violent conduct within the restricted area, including toward the law enforcement officers tasked with protecting the Capitol grounds on that date.

On March 17, 2021, defendant Mark Ponder was arrested and charged for allegedly assaulting multiple officers at the U.S. Capitol on January 6, 2021, and for participating in the civil disorder that ensued. Following a hearing on March 22, 2021, defendant Ponder was detained

pending trial based upon a finding that there was no combination of pre-trial conditions that would protect the community should he be released.

Following his arrest, defendant Ponder was indicted on March 26, 2021, for seven felony counts, including: three counts of violating 18 U.S.C. § 111(a)(1) and (b) for Assaulting, Resisting, or Impeding Certain Officers Using a Dangerous Weapon; three related counts of violating 18 U.S.C. § 231(a)(3) for Civil Disorder; and one count of violating 18 U.S.C. § 1512(c)(2) and 2 for Obstructing an Official Proceeding/Aiding and Abetting. Mr. Ponder was also indicted for five related misdemeanors.

At a status hearing held on July 12, 2021, defendant Ponder rejected the plea offer extended by the United States and the Court set a trial date for January 3, 2022. The Court also found that it was in the interests of justice to exclude the time between July 12, 2021 and January 3, 2022 from the speedy trial calculation. That trial date was later continued until January 7, 2022, by order of the Court.

Since January 6, 2021, the United States has charged approximately 650 defendants for conducted alleged to have taken place on the Capitol grounds on that date. The scope of the investigation and number of defendants is unprecedented and has resulted in a voluminous collection of materials to be provided to defense counsel in order to discharge the government's discovery obligations and to ensure that every defendant has access to potentially exculpatory evidence. To that end, the United States Attorney's Office has proactively worked to provide not only the voluminous discovery materials themselves, but to ensure that defense counsel has ready access to those materials in a manageable format. The United States has also regularly updated the Court and Counsel as to the status of voluminous discovery, including in status updates filed

on July 13, 2021 [ECF No. 23], August 26, 2021 [ECF No. 26], September 15, 2021 [ECF No. 27], and October 24, 2021 [ECF No. 34].

To date, the United States has now provided defense counsel with access to a significant amount of material related to the assault on the U.S. Capitol, including thousands of hours of body worn camera footage, CCTV footage, and documents and exhibits related to investigations into law enforcements officers who were present at the Capitol on January 6, 2021. The United States expects to continue providing additional discovery in the coming months, some of which may be relevant to Mr. Ponder.

Given the volume of materials that are potentially relevant to all Capitol Riot cases, the parties have conferred and agree that it is in the interest of justice to seek a continuance of the trial date currently scheduled for January 7, 2022. In order to fully prepare for trial, Counsel for the Defendant must now review the discovery provided by the United States, a task that will take a significant number of hours given the volume of materials. Defense counsel is also preparing for two multiple defendant RICO trials in the Eastern District of Virginia which are scheduled to begin in early February and also involve multiple terabytes of discovery.

This is the first trial date in this case and a continuance is in the best interests of the defendant and the public. Specifically, a continuance will avoid prejudice to the defendant by allowing the United States time to complete the production of voluminous discovery and by allowing counsel for the defendant to thoroughly review the voluminous discovery materials in preparation for trial. Furthermore, as currently scheduled, this case is set to be the first trial arising out of the events at the United States Capitol on January 6, 2021. It is in the best interest of the public for these trials to not only be conducted in an expeditious manner, but also with the benefit of fulsome discovery.

For these reasons, the parties jointly request that the Court vacate the trial date of January 7, 2021, vacate the deadlines in the Pre-Trial Conference Order issued on July 30, 2021, and to expeditiously set a status date for the parties to select a new trial date and revised pre-trial deadlines.

Respectfully submitted,

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