

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

UNITED STATES OF AMERICA,

V.

ETHAN NORDEAN, et al.,

Defendant.

Case No. 1:21-cr-175-TJK

**DEFENDANT NORDEAN'S RESPONSE TO JOINT STATUS REPORT WITH  
PROPOSED PRETRIAL SCHEDULE**

Defendant Nordean, through his counsel, submits this response to the Joint Status Report with Proposed Pretrial Schedule filed by the government on June 29. ECF No. 420.

Trial is scheduled to begin on December 12. Except for motions in limine to exclude, limit or modify the government’s proposed exhibits and pending motions to change venue filed by other Defendants, the government’s proposed pretrial schedule sets a deadline for “any remaining pre-trial motions, including motions to suppress and motions in limine, on or before October 14, 2022; oppositions to the motions filed shall be due on October 28, 2022; and replies shall be filed by November 4, 2022. An in-person hearing on the motion shall be scheduled for November 18, 2022. . .” ECF No. 420-1, p. 4. However, the proposed order carves out Defendants’ motions to dismiss from the category of “any remaining pre-trial motions” that must be filed by October 14. Under the proposed schedule, motions to dismiss would be due on or before August 19, 2022. *Id.* at 1. The government’s Joint Status Report says that all the Defendants except Nordean “propose” the August 19 deadline for motions to dismiss. ECF No. 420, p. 1.

The government's proposed deadline for motions to dismiss should be denied. The other

Defendants did not “propose” an August 19 deadline for those motions. The government proposed that date and the other Defendants did not respond by email with a rejection. Nor did they have any reason to. Nordean’s understanding is that the other Defendants will likely file motions to join a forthcoming motion to dismiss filed by Nordean.<sup>1</sup> Thus, there was no reason for the other Defendants to object to an August 19 deadline or any other deadline.

In contrast, Nordean cannot meet an August 19 deadline for motions to dismiss given the press of a significant amount of work in this and other matters. The forthcoming motions will involve complicated issues necessitating substantial legal research. An October 14 deadline is just as appropriate and feasible for motions to dismiss as it is for all other “remaining pre-trial motions” due on that date under the proposed order. Motions to dismiss do not need to be resolved four months before a trial. By staggering the deadlines for different pretrial motions, the government attempts to ensure that motions will toll the Speedy Trial Act through trial. This procedure inappropriately forces Nordean to choose between his Speedy Trial Act rights and his rights to file necessary pretrial motions. A single October 14 deadline for pretrial motions harmonizes those rights.

For all these reasons, Nordean objects to an August 19 deadline for motions to dismiss on due process, Sixth Amendment and Speedy Trial Act grounds.

Dated: June 30, 2022

Respectfully submitted,

/s/ David B. Smith

David B. Smith, D.C. Bar No. 403068

David B. Smith, PLLC

108 North Alfred Street, 1st FL

Alexandria, Virginia 22314

(703) 548-8911 / Fax (703) 548-8935

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<sup>1</sup> It appears that Defendant Rehl may file an additional motion to dismiss but only because his current counsel did not appear in this case until after the prior motion to dismiss was briefed.

dbs@davidbsmithpllc.com

Nicholas D. Smith, D.C. Bar No. 1029802  
David B. Smith, PLLC  
7 East 20th Street, Suite 4R  
New York, NY 10003  
(917) 902-3869  
nds@davidbsmithpllc.com

*Counsel to Nordean*

**Certificate of Service**

I hereby certify that on the 30th day of June, 2022, I filed the foregoing notice with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

Jim Nelson  
Assistant United States Attorney  
555 4th Street, N.W., Room 4408  
Washington, D.C. 20530  
(202) 252-6986

And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

/s/ David B. Smith  
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David B. Smith, VA Bar No. 25930  
David B. Smith, PLLC  
108 North Alfred Street, 1st FL  
Alexandria, Virginia 22314  
(703) 548-8911 / Fax (703) 548-8935  
dbs@davidbsmithpllc.com