

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

UNITED STATES OF AMERICA

v.

JAMES ALLEN MELS,

Defendant.

Crim. Action No. 21CR184 (BAH)

MOTION FOR LEAVE TO LATE-FILE ONE ADDITIONAL MOTION

Undersigned counsel respectfully moves the Court for leave to late-file one additional Motion, that is, a Motion to Dismiss Count Four of the Information pursuant to Fed. R. Crim. P. 12 (b)(3). Count Four charges Mr. Mels with one count of Parading and Picketing, in violation of 40 U.S.C. 5104 §(e)(2)(G). It has come to undersigned counsel's attention that counsel overlooked a constitutional challenge to the Parading and Picketing statute and failed to timely file a motion to dismiss that count. In an effort to avoid potential post-conviction claims, counsel moves for leave to late-file. Counsel apologizes to the Court and the government for her oversight. Counsel proposes to file the Motion by June 28, 2022, with government Response due July 13 and Reply due July 15, 2022. This would allow the Court one week to review the pleadings in advance of the July 22, 2022, pre-trial conference. In support of this Motion, counsel states:

1. Mr. Mels is before the Court charged by a four-count Information with Section 1752 offenses.
2. Trial is scheduled to commence August 1, 2022. Motions were due June 10, 2022, with Responses due June 24, 2022, and Replies due July 1, 2022.¹
3. On June 3, 2022, undersigned counsel timely filed three Motions. *See* ECF. No. 41 (Motion for a Bill of Particulars); No. 42 (Motion to Transfer Venue); No. 43 (Motion to Dismiss Counts One and Two). On June 24, counsel filed a brief a Response to one of the government's Motions in Limine. *See* ECF. No. 49. Counsel did not oppose two additional government Motions.
4. It has since come to counsel's attention that counsel overlooked a potentially meritorious constitutional challenge to Count Four.
5. Mr. Mels has a constitutional right to effective assistance of counsel. In order to provide Mr. Mels with effective representation, counsel moves for leave to late-file so that counsel does not waive a potentially meritorious and dispositive issue.
6. Accordingly, counsel now seeks for leave to late-file one additional Motion. If permitted, counsel will be prepared to file the Motion no later than June 28, 2022.
7. Counsel has reached out to government counsel for the government's position and has not heard back as of the filing of this request.

¹ The trial date in this matter was initially scheduled for August 29, 2022, with Motions due June 30, 2022. *See* Minute Order, 5/5/2022. The trial date and motions schedule was advanced by one month by order of the Court. *See* Minute Order, 5/9/2022.

Wherefore the foregoing reasons, counsel moves the Court for leave to late-file one additional Motion in the above-captioned case.

Respectfully Submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

_____/s/_____
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