

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : CASE NO. 21-CR-276 (CKK)
 :
 CLIFFORD MACKRELL, :
 :
 Defendant. :

MOTION FOR LEAVE TO FILE ADDITIONAL MOTIONS *IN LIMINE*

The United States, by and through its attorney, the United States Attorney for the District of Columbia, respectfully moves this Court for leave to file additional motions *in limine* as circumstances may require. In support of its motion, the government states as follows:

1. On multiple occasions between October 2021 and the present, the United States provided the defense with case-specific discovery. The transmittal letter for this production requested reciprocal discovery pursuant to Fed.R.Crim.P. 16(b)(1). Further, the United States continues to provide all global discovery productions and any new case-specific information as it is received. To date, the United States has received no reciprocal discovery from the defense.

2. On August 4, 2022, this Court entered a Pretrial Scheduling Order in this matter (ECF No. 42) which ordered the Government and the Defendant to file any pre-trial evidentiary motions by March 6, 2022 and any non-evidentiary motions by March 6, 2023. To date, no such motions have been by either party.

3. The Court further ordered that all Government and Defense motions *in limine* be filed by March 20, 2023, and the parties to then file any responses by April 3, 2023, and any replies by April 10, 2023.

4. On March 20, 2023, the Government filed two motions *in limine* in this case (ECF Nos. 50 and 51). To date, the government is unaware as to whether the defendant will file any

pre-trial motions and has had trouble contacting defense counsel. Based on the limited information regarding proposed defenses at trial and the lack of defense motions filed, the Government now seeks leave to file additional motions *in limine* should the need arise based on information not currently available to the United States

The timing of a decision on the admissibility of contested evidence brought by a motion *in limine* is a matter within the Court's discretion. See *United States v. Sheppard*, 21-203 (JDB), 2022 WL 17978837 at *15 n. 13 (D.D.C. Dec. 28, 2022) (allowing the parties to file a motion *in limine* to address certain evidence despite passage of deadline for filing such motions); *United States v. Adelekan*, 19 Cr. 291 (LAP), 2021 WL 4839065 at *7 (S.D.N.Y. Oct. 15, 2021)(allowing defendant to file motions *in limine* after expiration of deadline in scheduling order for materials government produced subsequent to that deadline); *United States v. D-1 Damarlin Markeel Beavers*, 16-cr-20677, 2017 WL 3704383 at *4 (E.D. Mich. Aug. 28, 2017) (ruling that the court may, in its discretion, consider motions *in limine* filed after the motions deadline); see also Fed.R.Crim.P. 45(b)(1)(A) (providing that a court may extend a deadline on a party's motion before the deadline expires for good cause).

Here, the United States seeks to preserve its ability to move *in limine* if it acquires additional information not currently in its possession. Communication with opposing counsel has been limited, and the United States has not had the benefit of reciprocal discovery or even the content of pretrial motions to inform its evaluation of whether further motions may be appropriate.

WHEREFORE, the government requests that the Court grant the government's motion and permit the filing of additional motions *in limine* as circumstances may require.

Respectfully submitted,

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