

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MICHAEL FOY,

Defendant.

Crim. Action No. 1:21CR108

**MR. FOY'S UNOPPOSED MOTION TO VACATE TRIAL DATE AND
SCHEDULE A STATUS CONFERENCE HEARING**

Michael Foy ("Mr. Foy"), through counsel, respectfully moves this Court to vacate his trial date and set a status hearing date in approximately 45 days so that the parties can meaningfully engage in recently renewed plea negotiations. In support of this Motion, counsel states the following:

1. Mr. Foy was arrested on January 24, 2021, in the Eastern District of Michigan for his alleged participation in the events of January 6, 2021.
2. On February 10, 2021, Mr. Foy was charged by Indictment with Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 U.S.C. § 1512 (c)(2); Assaulting, Resisting or Impeding Certain Officers Using a Dangerous Weapon, in violation of 18 U.S.C. § 111(a)(1) and related offenses.
3. On February 7, 2022, the Court a trial date of September 19, 2022.
4. On March 9, 2022, the Court ordered that the parties submit a Joint Proposed Pretrial Schedule by June 30, 2022.

5. In the interim, Mr. Foy has reinitiated plea discussions. Based on his request to submit additional information to the supervisory prosecution team for a possible no-trial disposition, at this time the government does not oppose this request.
6. Counsel for Mr. Foy have begun to gather mitigating evidence that may aid in plea negotiations. For example, Mr. Foy has been diagnosed with mental health issues that predated January 6, 2021.
7. Moreover, defense counsel's schedule has made a September 19th trial date unrealistic. Undersigned counsel was required to schedule a two-week trial on August 29, 2022, for a client who has been detained for over two years.¹ In addition to the current September 19th date, counsel currently has trials scheduled for July 26, 2022, August 1, 2022, October 3, 2022, October 23, 2022, November 24, 2022, and will be scheduling another trial for December or early January. Co-counsel also has four trials set between now and January 3rd.
8. There are no additional attorneys at the Federal Public Defender office who can assist. The office has experienced significant attrition in the past month and those attorneys have not yet been replaced, resulting in the transfer of a substantial number of cases. The onslaught of January 6th cases in addition to the other defendants the Federal Public Defender represents

¹Mr. Foy is not detained and has been in perfect compliance of his conditions of release, thus a detained defendant's case would take precedence over Mr. Foy's.

