

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

UNITED STATES OF AMERICA	:	
	:	
	:	
v.	:	Case No. 21-cr-26 (CRC)
	:	
CHRISTOPHER MICHAEL ALBERTS,	:	
	:	
Defendant.	:	

GOVERNMENT’S MOTION TO DISMISS COUNT TEN

The United States of America moves to dismiss count 10 of the Second Superseding Indictment (ECF No. 34) without prejudice, pursuant to Federal Rule of Criminal Procedure 48(a).

Rule 48(a) provides “[t]he government may, with leave of court, dismiss an indictment.” Fed. R. Crim. P. 48(a). “The discretion of whether to dismiss an indictment, and whether to dismiss it with or without prejudice, lies in the first instance with the prosecutor.” *United States v. Florian*, 765 F. Supp.2d 32, 34 (D.D.C. 2011). Absent evidence that the government is seeking to dismiss an indictment in bad faith or for reasons clearly contrary to the public interest, a motion for leave to dismiss should be granted. *See Rinaldi v. United States*, 434 U.S. 22, 29-30 (1977). Moreover, under Rule 48, “there is a strong presumption in favor of a dismissal without prejudice over one with prejudice.” *Florian*, 765 F. Supp.2d at 34. Only under “exceptional circumstances” should a court deny the government’s request for dismissal without prejudice. *Id.*

On November 10, 2021, the grand jury returned a second superseding indictment against defendant Christopher Alberts. *See* ECF No. 34. Count 10 charges Alberts with unlawful possession of a large capacity ammunition feeding device, in violation of D.C. Code § 7-2506.01(b). *Id.* Following the Supreme Court’s decision in *New York State Rifle & Pistol Assoc. Inc. v. Bruen*, 142 S. Ct. 2111 (2022), and this Court’s Order dated November 23, 2022 (ECF No.

77), the government has opted not to proceed with Count 10 against Alberts and seeks dismissal of Count 10 in the second superseding indictment without prejudice.

The defendant, by counsel, consents to the relief sought herein.

Dated December 5, 2022.

Respectfully submitted,

MATTHEW M. GRAVES
United States Attorney
DC Bar No. 481052

/s/ Jordan A. Konig
JORDAN A. KONIG
Supervisory Trial Attorney, Tax Division,
U.S. Department of Justice
Detailed to the U.S. Attorney's Office
For the District of Columbia
P.O. Box 55, Washington, D.C. 20044
202-305-7917 (v) / 202-514-5238 (f)
Jordan.A.Konig@usdoj.gov

CERTIFICATE OF SERVICE

On this 5th day of December 2022, a copy of the foregoing Motion to Dismiss Count Ten was served upon all parties listed on the Electronic Case Filing (ECF) System.

By: /s/ Jordan A. Konig
JORDAN A. KONIG
Supervisory Trial Attorney, Tax Division,
U.S. Department of Justice
Detailed to the U.S. Attorney's Office
For the District of Columbia
P.O. Box 55, Washington, D.C. 20044
202-305-7917 (v) / 202-514-5238 (f)
Jordan.A.Konig@usdoj.gov