

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

)	
UNITED STATES OF AMERICA,)	
)	
v.)	Case No. 1:21-cr-179-RCL
)	
RACHEL POWELL,)	
)	
Defendant.)	
)	

**DEFENDANT POWELL’S RESPONSE TO THE GOVERNMENT’S MOTION FOR A
STATUS CONFERENCE**

Defendant Powell, through her counsel, files this response to the government’s motion for a status conference. ECF No. 82.

On September 21, the Court held a status conference in which it indicated that it would set a trial date in this matter for November 15, 2022. However, the Court gave defense counsel leave to make a filing regarding his availability for such a date given previous commitments. Counsel filed a notice the same day explaining that he has serious concerns regarding his ability to provide effective assistance of counsel to Powell during a November 15 trial in light of the press of prior commitments surrounding the November 15 date. Counsel advised the Court that he would attempt to obtain alternative trial dates from government counsel. ECF No. 77.

The same day, counsel called an attorney for the government, AUSA Karen Rochlin. Ms. Rochlin initially advised that she would provide alternative trial dates to counsel but that she would first need to speak to her colleague, AUSA Lucy Sun. Later, however, Ms. Rochlin stated that the government would not provide alternative trial dates to the defense unless ordered to do so by the Court.

Counsel inquired whether the government would make a plea offer to Defendant Powell. AUSA Rochlin responded that the government would not be making a plea offer to current defense counsel. When counsel asked the government why that was the case, AUSA Rochlin responded that a plea offer had been extended to Powell's prior counsel, that it had not been accepted in time, and that it was now expired. Undersigned counsel informed the government that he had never received a copy of the plea offer and never had an opportunity to discuss it with Powell. The government replied to the effect that it has no obligation to reextend an expired plea offer to a defendant's substitute counsel.

Because the government would not agree to plea bargain with the defendant's current counsel, on September 27 Powell's counsel requested that the government send a draft statement of facts for a stipulated trial. Powell's counsel followed up on that request on October 3, October 6, and October 11. On October 11, the government provided a draft statement of facts to the defense for their review, two weeks after it had been requested.

On October 16, counsel wrote to the government that he would like to have a psychological evaluation of Defendant Powell performed prior to the defendant's decision regarding entry of a plea or election to participate in a stipulated or non-stipulated trial. Counsel advised that he had concerns regarding his ability to intelligibly communicate the law and trial risks to the Defendant. Counsel inquired whether the government would agree to a trial continuance so an evaluation could be performed.

On the morning of October 17, the government informed counsel that it would be seeking a status conference on defense counsel's request. Counsel notified the government that, as he had a number of scheduling conflicts this week, he would be grateful if the government would coordinate the timing of a proposed status conference. The government refused. The

government filed its motion for a conference without meeting or conferring with defense counsel as to his availability.

Dated: October 17, 2022

Respectfully submitted,

/s/ Nicholas D. Smith

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Certificate of Service

I hereby certify that on the 17th day of October, 2022, I filed the foregoing motion with the Clerk of Court using the CM/ECF system, and counsel of record were served by electronic means.

/s/ Nicholas D. Smith

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