

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

UNITED STATES OF AMERICA

vs.

**DONOVAN CROWL,
Defendant**

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Case No. 1:21-cr-00028-2 (APM)

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MOTION TO SEVER

Donovan Crowl, by his undersigned counsel, hereby respectfully moves this Honorable Court to sever his case from that of his codefendants pursuant to FED. R. CRIM. PROC. 14 as his counsel is unavailable to proceed to trial on the scheduled date.

1. Trial in this case is scheduled to start on February 1, 2023.
2. At present, various necessary pretrial matters are proceeding including submission of jury instructions, review of a jury questionnaire in anticipation of jury selection, deadlines for filings motions in limine, among other matters.
3. The Court has scheduled a Pretrial Conference in the instant case for Friday, January 20, 2023 at 10:00 a.m. Undersigned counsel is not available to appear.
4. As the Court was previously informed at the most recent status conference, undersigned counsel is in trial in another criminal case, *United States v. Nordean*, No. 21-cr-175 (TJK).

5. The *Nordean* case is a complex, 5-defendant case that is currently scheduled to run well past the February 1, 2023 scheduled start of the instant case.¹ The Court is the Nordean case is sitting every day of the week, with only occasional Friday afternoons off. The government has noted more than 30 witnesses. At present, the fourth witness in the case is still on the stand. Combined, the five defendants have also noted dozens of witnesses.

6. As a result, undersigned counsel is unable to devote the necessary time to the instant case to provide adequate representation to Mr. Crowl.

7. Under the circumstances, having another counsel stand in for undersigned counsel at the status conference does not cure the lack of time that undersigned counsel can devote to Mr. Crowl's case.

8. Federal Rule of Criminal Procedure 14 provides in pertinent part that:

(a) Relief. If the joinder of offenses or defendants in an indictment, an information, or a consolidation for trial appears to prejudice a defendant or the government, the court may order separate trials of counts, sever the defendants' trials, or provide any other relief that justice requires.

9. As noted above, the continued consolidation of Mr. Crowl's trial with that of the codefendants will prejudice him.

¹ The lead prosecutor in the *Nordean* case, Jason McCullough, has recently filed a motion in an unrelated case which states in pertinent part that he "is in trial in *United States v. Nordean*, 21-cr-175 (TJK), a five-defendant case involving seditious conspiracy charges, among others. That trial, previously scheduled for December 12, 2022, began December 19, 2022, and opening statements did not take place until January 12, 2023. ***It may continue into March.***" *United States v. García*, No. 21-cr-00129-ABJ, Joint Motion to Continue Trial (ECF 98, 1/13/23) at 2 (emphasis added).

WHEREFORE, Mr. Crowl respectfully requests that the Court sever his trial from that of his codefendants, which is scheduled to commence on February 1, 2023 and excuse his counsel from appearing at the Pretrial Conference and from any other deadlines currently set in the case.

Respectfully submitted,

/s/ Carmen D. Hernandez

Carmen D. Hernandez

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CERTIFICATE OF SERVICE

I hereby certify that the instant notice was served on all counsel of record 19th day of January, 2023 on all counsel of record via ECF.

/s/

Carmen D. Hernandez