

NOW COMES Defendant James McGrew, by and through his counsel of record, William L. Shipley, and respectfully requests this Honorable Court to vacate his current sentencing hearing, scheduled for October 14, 2022, at 10:00 am., and to reschedule that hearing approximately four-to-six weeks later as the Court's calendar permits.

Mr. McGrew and his Counsel have begun utilizing the volunteer efforts of the University Legal Services "District of Columbia's Disability Rights DC" unit for the purpose of evaluating Defendant McGrew's combat injuries – specifically whether the "traumatic brain injury" (TBI) he suffered in the IED explosion resulted in any recognized disability that might be a mitigating factor under 18 U.S.C. Sec. 3553A.

Natasha Walls Smith, Esq., is a Mitigation and Monitoring Staff Attorney with ULS, and regularly consults with defendants housed at DOC to determine whether they might benefit from neurological or psychological examination secondary to a traumatic brain injury based on their personal history and medical records. She has been provided a copy of Defendant McGrew's VA records dating back to his combat injuries in Iraq, and believes that further examination by a medical specialist is indicated based thereon.

The Government was provided with the VA records on September 29. The Defendant's mother secured copies of the records from the VA Hospital in Biloxi, Mississippi on September 21 at Ms. Smith's request. The Defense expectation is that, if appropriate based on the findings, an expert report from

the medical specialist would be submitted as a supplement to the Defendant's Sentencing Statement for the Court's consideration.

Created by the "Traumatic Brain Injury Act of 1996" (Public Law 104-166) as amended, the "Protection and Advocacy for Individuals with Traumatic Brain Injury" (PATBI) program is administered by the Disability Rights DC unit of University Legal Services. Through PATBI, DRDC advocates in the judicial system and with municipal government on behalf of people with traumatic brain injury. One area of work involves looking into cases of military veterans like Defendant McGrew who suffered TBI during the course of military service.

Counsel for Defendant McGrew was unaware of the University Legal Services or its PATBI outreach program. Ms. Smith made initial contact with Defendant McGrew in DOC, and then contacted his mother to discuss his post-Iraq behavior. She requested access to his VA medical records and contacted the undersigned counsel about the ULS program and services.

In addition to allowing this investigation, a delay would provide the time needed for the pending medical examinations to take place that Mr. McGrew has waited for months to undergo. The two appointments in early October are only diagnostic examinations and may reveal that further treatment is necessary. Given all the hurdles that have been overcome to this point, it would seem to make sense to allow him to finish receiving whatever care can be provided now rather than have him be sentenced, moved to a BOP facility, and likely start the entire process over again with a new set of medical care providers.

The Undersigned Counsel represents a defendant in the second “Oath Keepers” trial before the Hon. Amit Mehta, set to begin on November 28, 2022. Counsel requests that the Defendant McGrew’s sentencing hearing, if continued by this Court, be set to take place prior to the start of that trial if the Court’s calendar can accommodate that request.

The undersigned counsel contacted AUSA Lucy Sun and solicited her view on this request. After receiving Mr. McGrew’s medical records and the draft version of this motion, Ms. Sun responded that the Government “takes no position on this motion.”

WHEREFORE, the defendant, James McGrew moves this Honorable Court to vacate the scheduled sentencing hearing and continue it to the last two weeks of November, or sometime in mid-January 2023 if an earlier date is not available on the Court’s calendar.

Date: September 30, 2022

Respectfully Submitted,

/s/ William L. Shipley
William L. Shipley
PO Box 745
Kailua, Hawaii 96734
Tel: (808) 228-1341
Email: 808Shipleylaw@gmail.com

Attorney for Defendant