

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

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 21-cr-00398-BAH
)	
JAMES McGREW,)	
)	
Defendant)	
)	

**THIRD MOTION TO VACATE SENTENCING DATE
AND TO CONTINUE SENTENCING**

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Attorney for Defendant

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 November 17, 2022, and to reschedule that hearing in late January or early February as the Court's calendar permits.

As noted in Mr. McGrew's previous motion to continue his sentencing dated September 29, 2022, Mr. McGrew and his Counsel are working with the District of Columbia's Protection and Advocacy Agency, Disability Rights DC at University Legal Services, to determine whether Mr. McGrew's mental, physical, and neurological disabilities may constitute mitigating factors under 18 U.S.C. Sec. 3553A.

Natasha Walls Smith, Esq., is a Mitigation and Monitoring Staff Attorney with ULS. Unfortunately, just after the Court granted the prior motion on September 30, 2022, Ms. Walls Smith contracted a serious case of COVID-19 and is still recovering. At this time Ms. Walls Smith has yet to return to work full-time or in-person as required by her office.

As a result, insufficient progress has been made on the work needed to present an evaluation and expert opinion to the Court as part of the sentencing process for the November 17, 2022, sentencing date.

It is undersigned counsel's present intention to have a new TBI evaluation done of Mr. McGrew by a medical professional who will have the benefit of Mr. McGrew's entire history of conduct following his active-duty

injuries, and to bring the most recent scientific studies and evaluation processes to the review of Mr. McGrew's case.

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 next update on Mr. McGrew's medical issues will include the fact that on October 26 he was scheduled to have the long-awaited urology consult/treatment with the specialist at Howard University Hospital. After he was placed in the van, a transportation problem developed, and Mr. McGrew was not able to make it to the scheduled consultation/ treatment.

It was nearly one year ago that the Court first intervened on behalf of Mr. McGrew to see that he was provided this medical care, and once again that treatment has been delayed. There is no indication yet of how long it will take to reschedule the treatment with the specialist. Continuing Mr. McGrew's sentencing as requested would provide the additional time now necessary to ensure that he is provided this medical care.

The undersigned counsel represents a defendant in the second "Oath Keepers" trial before the Hon. Amit Mehta, which is now set to begin trial on December 5, 2022. Given the longer-than-expected nature of the first trial, it is expected that the second trial will go through the holidays and into January 2023 – possibly to and through the week of January 16, 2023.

Counsel for Mr. McGrew has informed counsel for the Government of this request, and has provided a draft of this motion for comment. Counsel for the

Government has responded that the Government “takes no position” on the request being made.

WHEREFORE, the defendant, James McGrew moves this Honorable Court to vacate the scheduled sentencing hearing and continue it to the last week of January 2023 or later depending on dates available on the Court’s calendar.

Date: October 31, 2022

Respectfully Submitted,

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