

NOW COMES Defendant Damon Beckley by and through his counsel of record William L. Shipley, Esp., and respectfully request this Honorable Court to continue the current sentencing and to allow Defendant Beckley to supplement any presentencing filings.

The Government opposes the Defendant's motion for a continuance to allow newly retained counsel to adequately prepare for sentencing.

This opposition puts the Court in the difficult position of forcing defense counsel to proceed to a sentencing hearing with little or no preparation, a very limited understanding of the facts of the case, no sentencing statement on file, and the very likely possibility that counsel would need to characterize his own representation as "ineffective" under the applicable standards.

One alternative would be to deny defense counsel's entry into the case and have the Defendant to continue to represent himself at sentencing under circumstances where he seems to now recognize the difficulties facing a *pro se* defendant in that situation.

The second alternative is to simply grant newly retained counsel the requested continuance so that the sentencing hearing can proceed in a manner contemplated by the Constitution, Federal Rules of Criminal Procedure, and the United States Sentencing Guidelines.

The undersigned counsel is mindful of this Court's post-trial rulings to date and will provide the necessary advice and counsel to the Defendant with respect thereto – particularly how they bear upon the motions that he now has pending.

In addition, the undersigned counsel will review the PSR with the Defendant and file an appropriate Sentencing Statement to aid the Court in advance of the sentencing hearing.

If this motion to continue is granted, the Defendant's sentencing hearing will be near the one year mark following the trial. But not all of that delay is attributable to the Defendant. As noted by the Government, some period of delay following the trial in February 2023 was caused by the Defendant opting to represent himself, and then needing extra time – as is almost always the case with pro se defendants – to deal with post-trial filing responsibilities ahead of the scheduled sentencing date.

But, as the Government also notes, a period of delay covering nearly three months was at the request of the over-worked and under-staffed United States Probation Office.

Further, given the fact that the Defendant stands convicted of violations of only 18 U.S.C. Secs. 231 and 1512(c), given the Supreme Court's decision to hear *United States v. Fischer*, it is very likely that the Defendant will seek to remain on release status pending the outcome of *Fischer*. If the Supreme Court finds in favor of the defendant in *Fischer*, Mr. Beckley would be subject to sentencing only on the Sec. 231 count under a different sentencing guideline that would likely result in a shorter recommended guideline range.

If the Court were to be inclined to delay Mr. Beckley's surrender date on that basis, it matters not whether his sentencing proceeds on January 5, or is moved to a date in late February or early March as he would not be expected to report to a designated facility until July 2024 at the earliest.

Based on the foregoing, and the compelling need for Mr. Beckley to have effective representation of counsel at sentencing, he requests that the Court grant his motion and continue his sentencing hearing approximately 60 days.

Dated: January 2, 2024

Respectfully Submitted,

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

Attorney for Defendant