

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

UNITED STATES OF AMERICA

v.

MARK SAHADY,

Defendant.

Case No. 1:21-cr-00134

**UNOPPOSED MOTION TO CONTINUE TRIAL AND
AMEND SCHEDULING ORDER**

Defendant Mark Sahady (“Mr. Sahady”) by and through his undersigned counsel, files this Unopposed Motion to Continue Trial and Amend Scheduling Order pursuant to LCrR 57.2(b).

Trial is currently set for April 17, 2023, and the deadlines to file any motions to dismiss or other pretrial motions have already passed. *See* ECF No. 46. Mr. Sahady, without opposition from the government, now requests to continue the trial until May 22, 2023,¹ and amend the Scheduling Order such that any pretrial motions including a Motion to Dismiss will be due to the Court on April 22, 2023. In support of this Motion, Mr. Sahady states as follows:

On February 19, 2021, Mr. Sahady was charged by way of Information with three misdemeanors for his alleged acts on January 6, 2021. ECF No. 9. Specifically, Mr. Sahady was charged with Entering and Remaining in a Restricted Building or Grounds, in violation of Title 18, U.S.C. § 1752(a)(1), Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in

¹ In the alternative, until the earliest date after May 22, 2023, as the Court may deem fit and is appropriate for all parties.

violation of Title 18, U.S.C. § 1752(a)(2), and Disorderly Conduct in a Capitol Building, in violation of Title 40, U.S.C. § 5104(e)(2)(D). *Id.*

On March 22, 2022, the government filed a First Superseding Information. ECF No. 37. The First Superseding Information did not amend the code sections, or add Counts, but rather merely amended the language providing a basis of the charges.

Several days ago, on March 22, 2023, less than four weeks before trial, and after the motion deadlines have passed, the government filed a Second Superseding Information. ECF No. 57. In this Second Superseding Information, the government has added an additional Count against Mr. Sahady: Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, U.S.C. § 5104(e)(2)(G). *See* ECF No. 57. This added Count appears to be based on the same conduct and facts that the government has been aware of since the government filed its First Information over two years ago on February 19, 2021.

Mr. Sahady now files this Motion because the addition of this new Count, just weeks before trial, raises several issues that were not present before this Count was added. These issues will require undersigned counsel to file a Motion to Dismiss, where he will make several arguments, including but not limited to the fact that 40 U.S.C. § 5104(e)(2)(G) violates the First Amendment, that this addition of Count Four constitutes Vindictive Prosecution given the circumstances present in this case, and that the addition violates the Due Process Clause and implicates Federal Rule of Criminal Procedure 48(b)(1).²

² Of course, to be clear, the government has not represented to undersigned that a potential Motion to Dismiss will be unopposed. Rather, it has only stated that it does not oppose a request to continue trial in order for undersigned to file motions as a result of the Second Superseding Information.

Importantly, Mr. Sahady requests not just that the Scheduling Order be amended so that he may file his Motion to Dismiss, but also for a continuance of trial. Mr. Sahady requests this continuance because undersigned is currently in the middle of trial preparation for this matter,³ and did not budget for the time needed to file a potentially lengthy Motion to Dismiss just weeks before the trial date. If a continuance is not granted, undersigned will be forced to spend much of his time conducting the legal research and briefing necessary to adequately inform the Court of this new issue before it in lieu of spending his time preparing for trial. This substantial deviation of undersigned's time, just weeks before trial, will affect Mr. Sahady's constitutional right to a fair trial. Importantly, Mr. Sahady is of course not responsible for these issues being raised just weeks before trial.

Accordingly, and for good cause shown, Mr. Sahady requests that this Unopposed Motion to Continue Trial Date and Amend Scheduling Order be granted.

Respectfully submitted, the 26th day of March, 2023.

/s/ Blake A. Weiner

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³ Undersigned also has many other active cases—criminal and civil—which require his attention, pending in both state and federal court, including another criminal matter pending in this Court.