

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 21-177 (CRC)
)
)
 DANIEL D. EGTVEDT.)

DEFENDANT’S UNOPPOSED MOTION FOR CONTINUANCE OF TRIAL DATE

COMES NOW Kira Anne West, counsel for Mr. Daniel D. Egtvedt in the above captioned case, and respectfully requests that the Court continue this case until sometime between July 21, 2022 and August 12, 2022,¹ and in support Mr. Egtvedt states the following:

The government and the defense are working well together in preparation for trial of this case. Unfortunately, there are three issues that require more time and the defense simply cannot be prepared for trial on June 6, 2022 until those issues are resolved. This will take at least 6 more weeks.

First, the government has continued to produce voluminous discovery specific to Mr. Egtvedt’s charges in the case well after the date this Court set the trial date. As the Court aptly inquired about discovery specific to the charges involving Mr. Egtvedt during a previous status conference, before the Court set the trial date, the defense believed all discovery pertinent to Mr. Egtvedt had been produced. This turns out not to be the case. For example, in April 2022, the government produced , on three different dates, multiple police reports and videos specifically of Mr. Egtvedt that the defense had never seen nor heard about previously. Moreover, after Mr. Egtvedt filed his motion to suppress, photographs and video of Mr. Egtvedt holding a phone outside the Capitol were produced for the first time just last week on May 4th.

¹ Counsel for both sides have discussed their calendars and these are the dates the 4 lawyers and the case agent are

As the Court can imagine, this puts defendant's motion to suppress and trial strategy in a new posture. This evidence should have been produced long before the motions date so that the defendant could make a factually accurate argument. On May 2nd, radio runs and additional evidence specific to Mr. Egtvedt was produced by the government for the first time. Just yesterday, the government produced global discovery number 15 which the defense is obligated to review with the defendant before trial. Again, just yesterday, defense counsel received for the first time additional body worn camera from an Arlington County police officer that defense counsel had never heard of.² The government still cannot state that all discovery pertinent to Mr. Egtvedt has been produced. It's just too much discovery produced too late for the June 6 trial date. Undersigned counsel simply cannot prepare for trial and go thru all this additional discovery with the defendant before trial.

Second, as discussed in our last status conference, the defense has not been allowed to photograph or measure the most important part of the Capitol wherein Mr. Egtvedt is alleged to have assaulted police officers even though it is listed in the defense walk through locations letter as a "public space" in several government provided documents. Moreover we have not been able to access non-public spaces such as the senate wing doors where Mr. Egtvedt was sprayed in the eyes point blank by a U.S Capitol police officer who has yet to be identified. As instructed by the Court, defense counsel sent the government a letter asking for access to this area so that defendant's investigator could photograph and measure it. This access was denied by the general counsel for the Capitol on May 5, 2022. This access goes to the very heart of defendant's defense on the most crucial felony charge in this case and a motion to the Court on this issue will be forthcoming to allow defense access and the ability to photograph and measure

available.

² The government noted in their production by email yesterday that this was produced in the global discovery of

these areas before trial.

Third, and perhaps most importantly, defense counsel and the government still cannot identify multiple key officers for the defense of Mr. Egtvedt. Of particular importance is a U.S. Capitol Police officer that is beating multiple individuals at the senate wing doors for a period of at approximately 20 minutes through a window with his night stick or something similar and is also the officer seen on CCTV video spraying Mr. Egtvedt in the eyes. The government has indicated that they have asked several other U.S. Capitol police officers who cannot identify this particular capitol police officer at this time but this process is ongoing. The defendant needs more time to identify this Capitol police officer and others through the issuance of subpoenas or other methods. Without identification, the defense is unable to search the relativity database for use of force reports generated by this officer on January 6, 2023. These reports are critical because it goes to the credibility of the police officers and the effect the spray had on Mr. Egtvedt's eyesight and orientation to his surroundings on January 6th.

This request will not affect the Court hearing the motion to suppress and any other pretrial motions on June 6, 2022, if the Court deems this date appropriate.

Finally, undersigned counsel, along with co-counsel Nicole Cubbage, discussed this issue yesterday with both AUSA's who do not oppose this request for continuance.

January 7, 2022. However, this officers name was not known to undersigned counsel, so it would be a virtual impossibility for defense counsel to know this had to do with Mr. Egtvedt
3 Undersigned counsel just two weeks ago was able to access relativity for the first time after numerous emails and telephone calls to Deloitte staff. The learning curve for accessing material through Relativity is very steep and a very few trainings have been offered to date to help defense counsel to access this discovery platform for preparation for trial. Additionally, approximately every few weeks, a tranche of global discovery is put into this database making it even more difficult for defense counsel to confidently comprehend the universe of searchable documents at any given time.

