

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

)	
UNITED STATES OF AMERICA,)	
)	Case No. 1:21-cr-179-RCL
)	
v.)	
)	
RACHEL POWELL,)	
)	
Defendant.)	
)	

POWELL’S MOTION TO CONTINUE TRIAL

Powell, through her counsel, moves the Court to continue the bench trial in this matter for the following reasons. The government opposes this motion.

First, Powell’s counsel has spent the last five months in trial in *United States v. Nordean*, 21-cr-175. A verdict was returned yesterday, May 4. No one expected trial to last even half that length of time. Counsel has not had sufficient time to prepare for Powell’s trial and risks rendering the defendant ineffective assistance of counsel.

Second, for weeks the government refused to provide Powell’s current counsel with discovery in this matter. A former Assistant U.S. Attorney assigned to this case, Karen Rochlin, advised the undersigned that the government would not provide discovery materials to him because it had been previously produced to Powell’s prior counsel. Powell’s current counsel explained that the prior counsel had misplaced the materials. That did not change the government’s position. As explained, Powell’s current counsel has been in trial for the past five months. Powell did not gain access to electronic discovery until April 24, 2023. She could use additional time to review these materials before her trial.

Third, the government has not provided the defense with an exhibit list and trial is

scheduled for Monday. Jencks materials were first provided yesterday, May 4. This does not give the defense sufficient time to prepare.

Fourth, the government's plea bargaining in this matter is unreasonable. For months, Powell has been willing to plead guilty to crimes she committed. However, the government will not plea bargain on those offenses. Trial is occurring exclusively because the government insists that Powell plead guilty to a Section 1512(c)(2) offense that two judges on the court of appeals have said is being misapplied by the government in January 6 cases. *See United States v. Fischer*, 64 F.4th 329 (D.C. Cir. 2023) (Walker, J., concurring in part; Katsas, J., dissenting).

For all these reasons, Powell requests a trial continuance.

Dated: May 5, 2023

Respectfully submitted,

/s/ Nicholas D. Smith

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Certificate of Service

I hereby certify that on the 5th day of May, 2023, I filed the foregoing motion with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

Karen Rochlin
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And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

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