

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

UNITED STATES OF AMERICA

v.

SARA CARPENTER,

Defendant.

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Criminal No. 21-CR-305 (JEB)

**DEFENDANT’S MOTION TO BE RELIEVED AS COUNSEL
AND TO APPOINT SUBSTITUTE COUNSEL**

The defendant hereby moves this Court to relieve the undersigned counsel of the Federal Defenders of New York and appoint new counsel for Ms. Carpenter, as we submit there has been an unresolvable breakdown in communication. The defendant further requests that the deadlines to file objections to the Presentence Report (“PSR”), and submit sentencing submissions be held in abeyance to allow newly appointed counsel the opportunity to meet with Ms. Carpenter and review the PSR and other relevant documents. In support of its motion, the defendant states as follows:

FACTUAL BACKGROUND

On March 9, 2023, a jury trial in this matter concluded with a verdict of guilty on all counts. The jurors were discharged, Ms. Carpenter was continued on a personal recognizance bond, and sentencing was set for July 14, 2023. On June 9, 2023, Probation disclosed the Draft PSR. As noted therein, pursuant to Fed. R. Crim. P. 32(f)(1) and (2) objections to the PSR must be filed within 14 days, thus, on or before June 23, 2023.

In the draft PSR, Probation calculated a total offense level of 26, resulting in a recommended guidelines range of imprisonment of 63 to 78 months. *See* Draft PSR at ¶¶ 63,66 and 116. The report also indicates that the government is reviewing whether to seek an upward departure pursuant to USSG § 2332b((g)(5)(B). PSR at ¶154. Based on defense counsels' communications with the government, it is our understanding that the government believes the correct total offense level is 25 resulting in a recommended guidelines range of imprisonment of 57 to 71 months. The guidelines ranges calculated by Probation and the government are substantially higher than defense counsels' own estimates and the government's previous estimates in its plea agreements.

On June 20, 2023 defense counsel moved with the consent of the government to continue Ms. Carpenter's sentencing and to extend deadlines for objections to the PSR and the filing of sentencing submissions in order to provide defense counsel with additional time to review the PSR with Ms. Carpenter and to prepare and submit factual as well as legal objections to the PSR. In meeting with Ms. Carpenter in an effort to review the PSR and prepare for sentencing, it has become apparent that since her conviction at trial, there has been a severe breakdown in communication. After lengthy discussions with Ms. Carpenter, we have determined that this problem cannot be resolved, and that the only tenable path forward is for new counsel to be substituted... Ms. Carpenter has raised substantial concerns regarding counsels' performance at trial as well as counsels' ability to zealously advocate on her behalf.

As the Court is aware, Ms. Carpenter is a 53-year-old former NYPD officer with no prior criminal history. As acknowledged by Special Agent Carasiti in his testimony, Ms. Carpenter retired from the NYPD as a result of a disability. Tr. at 139. She is also the single parent of a

teenage college student. It is defense counsels' belief that based on Ms. Carpenter's history and characteristics there exists substantial mitigation that should be brought before the Court. Given the serious potential consequences facing Ms. Carpenter, and the impairment of our ability to communicate with her and prepare for sentencing, we request that the Court appoint substitute counsel to represent Ms. Carpenter through sentencing. In the alternative, we would request a status conference to address the application.

ARGUMENT

For the above-stated reasons, defense counsel submits that there is an unresolvable conflict and that counsel cannot continue to represent Ms. Carpenter. Given our continuing duty of loyalty to Ms. Carpenter and the existing attorney-client privilege, we believe it would be inappropriate to provide further details concerning the nature and substance of the conflict.

WHEREFORE, the defendant respectfully requests that this Court grant the motion to relieve counsel and appoint substitute counsel and hold deadlines to file objections to the PSR and the parties' sentencing submissions until new counsel has had an opportunity to meet with Ms. Carpenter. In the alternative, we request that the Court schedule a status conference to address this issue.

Respectfully submitted,

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ORDER

Based upon the representations in the Defendant’s motion for to relieve counsel, appoint substitute counsel and hold the deadlines to file objections to the draft Presentence Report (“PSR”) and sentencing memoranda, in abeyance and upon consideration of the entire record, the Court makes the following findings:

Due to defense counsels’ unresolvable conflict with Ms. Carpenter the Court will appoint new counsel pursuant to the Criminal Justice Act and hold deadlines for objections to the PSR and sentencing submissions in abeyance until such time as new counsel has had an opportunity to meet with Ms. Carpenter, and confer with the government to propose a briefing schedule

Therefore, it is this _____ day of _____, 2023,

ORDERED that the Defendant's Motion for an Order to be Relieved and Hold Deadlines to File Objections to the Presentence Report, and Sentencing Submissions is hereby **GRANTED**.

THE HONORABLE JAMES E. BOASBERG
UNITED STATES DISTRICT JUDGE