

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, )  
 )  
 v. ) Case No. 21-CR-453 (JDB)  
 )  
 SEAN MICHAEL MCHUGH, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**DEFENDANT’S MOTION TO FILE OUT OF TIME**

COMES NOW Defendant, Sean Michael McHugh (Mr. McHugh) by and through his counsel of record, Joseph W. Allen, and in keeping with Rule 12(b) respectfully tenders his Motion to File out of Time and in support thereof states as follows:

1. On September 26, 2022, this Court made and entered its order regarding the timing and deadlines for filing pre-trial motions in this case.
2. Said deadline has passed and the ruling of this Court on the several Motions filed is pending.
3. Since that time, there has been certain disclosures made in the news that are directly relevant to Mr. McHugh’s case, namely and primarily the shocking revelation of the Federal Government’s involvement in suppressing the 1<sup>st</sup> Amendment on the social media platform Twitter<sup>1</sup>.
4. This unconscionable conduct, directly at the behest of the current presidential administration in some instances, was leveled against those who hold to a particular

---

<sup>1</sup> <https://www.foxnews.com/media/twitter-files-part-9-vast-web-coordination-between-tech-giant-cia-state-department>

political persuasion and those who were and are supporters of former president Trump.

5. This revelation should raise not only the ire and indignation of every Judiciary in this Country who are the sworn protectors and the last line in the defense of the rights of the citizenry, but also raises significant question as to selective prosecution in the January 6 cases.
6. Fed. R. Crim. P. 12(b)(3) specifically mentions selective prosecution claims as being a motion which must be made prior to trial.
7. While the deadline set by this Court has passed wherein to file pre-trial motions, Fed. R. Crim. P. 12 (c)(3) states:

If a party does not meet the deadline for making a Rule 12(b)(3) motion, the motion is untimely. ***But a court may consider the defense, objection, or request if the party shows good cause*** (emphasis added).

8. In light of the aforementioned recent revelations made regarding the misconduct of the Federal Government in suppressing the 1<sup>st</sup> Amendment, specifically against persons who are of the same political persuasion as Mr. McHugh, Mr. McHugh asserts that good cause has been shown as to why this Court should entertain his Motion for Discovery and an Evidentiary Hearing in Support of His Claim of Selective Prosecution out of time.

**WHEREFORE** Defendant respectfully prays this Court find that good cause has been shown as to why Mr. McHugh should be permitted to file his motion out of time in keeping with Fed R. Crim. P. 12(c)(3); that this Court make and enter its Order granting Mr. McHugh's motion to file out of time; and for such other and further relief as this Court shall deem just and proper on the premise.

Respectfully submitted,



---

Joseph W. Allen, MO BAR #57669  
1015 W. State Hwy. 248 Ste. I  
Branson, MO 65616  
Telephone: 417/334-6818  
Facsimile: 417/612-7081  
joe@mybransonattorney.com  
**Attorney for Defendant**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17th day of January 2023, I filed the foregoing Motion to File Out of Time and a proposed Order by the Court's CM/ECF system. All case registered parties will be served by CM/ECF.



---

Joseph W. Allen