

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

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**UNITED STATES OF AMERICA**

**V.**

**MARK S. IBRAHIM,**

**DEFENDANT.**

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CASE NO: 1:21-CR-00496-TJK

**MOTION FOR ABEYANCE**

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Pursuant to Local Rule of Civil Procedure 16.2, Defendant hereby moves for his case to be held in abeyance while his interlocutory appeal, ECF No. 78 and Court of Appeals Docket # 23-3037, is pending before the United States Court of Appeals for the D.C. Circuit.

Undersigned counsel has entered her appearance on behalf of Mark Ibrahim in the Court of Appeals, see Document #1991254.

The appellate matter is currently active and pending.

The interlocutory appeal is grounded in the claim that the Defendant is entitled to the protection of legislative immunity under 40 U.S.C. § 5104(e)(1)(A) and therefore should be shielded from the burden of going to trial. The exemption language in this statute functions as a grant of legislative immunity, which places federal law enforcement officers outside the purview of those who can be charged or prosecuted for the statutory offense. This immunity is functionally equivalent to other types of immunity, such as double jeopardy or qualified immunity, which are subject to interlocutory appeal. Therefore, the Court of Appeals has

jurisdiction over the Defendant's interlocutory appeal. This argument is further bolstered by a recent decision in *AXON ENTERPRISE, INC. v. Federal Trade Commission*, No. 21-86 (U.S. Apr. 14, 2023), which supports the Defendant's interlocutory jurisdictional claim.

The Defendant, Mr. Ibrahim, is not in custody but is rather under supervised release and has complied with the terms of his pretrial release since July of 2021. At present, the case is still in the discovery stage, and no trial date has been set.

Given these circumstances, the defense requests that the proceedings in this court be suspended until the United States Court of Appeals for the D.C. Circuit renders an opinion on the Defendant's interlocutory appeal.

Respectfully submitted,

By Counsel:

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**CERTIFICATE OF SERVICE FOR CM/ECF**

I hereby certify that on April 28, 2023, I will electronically file the foregoing with the Clerk of the Court for the United States District Court for the District of Columbia by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

\_\_\_\_\_/s/\_\_\_\_\_  
Marina Medvin, Esq.