

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

SHAWN PRICE,

Defendant.

No. 1:21-cr-106-CJN

**UNOPPOSED MOTION TO DISMISS COUNTS 2 AND 3  
OF THE INDICTMENT WITHOUT PREJUDICE**

The United States of America moves to dismiss counts 2 and 3 of the Indictment (ECF No. 29) without prejudice, pursuant to the plea agreement, ECF No. 37 ¶ 4, and Federal Rule of Criminal Procedure 48(a).

Rule 48(a) provides “[t]he government may, with leave of court, dismiss an indictment.” Fed.R.Crim.P. 48(a). “The discretion of whether to dismiss an indictment, and whether to dismiss it with or without prejudice, lies in the first instance with the prosecutor.” *United States v. Florian*, 765 F. Supp.2d 32, 34 (D.D.C. 2011). Absent evidence that the government is seeking to dismiss an indictment in bad faith or for reasons clearly contrary to the public interest, a motion for leave to dismiss should be granted. *See Rinaldi v. United States*, 434 U.S. 22, 29–30, 98 S.Ct. 81, 54 L.Ed.2d 207 (1977). Moreover, under Rule 48, “there is a strong presumption in favor of a dismissal without prejudice over one with prejudice.” *Florian*, 765 F. Supp.2d at 34. Only under “exceptional circumstances” should a court deny the government’s request for dismissal without prejudice. *Id.*

On October 14, 2022, the defendant pleaded guilty to Count 1, a felony, via a plea agreement with the government, ECF No. 37, in which the government agreed not to further prosecute the defendant for any of the conduct identified in the attached Statement of Offense,

which included the conduct underlying Counts 2 and 3, both misdemeanors, *id.* ¶ 4. On April 3, 2023, the Court sentenced the defendant on Count 1 to 12 months and 1 day of incarceration. The government neglected to dismiss Counts 2 and 3 during the sentencing hearing. This motion seeks to tie off that loose end and accomplish the understandings and goals of the parties as memorialized in the plea agreement.

Dated April 6, 2023.

Respectfully submitted,

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