

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 21-cr-28 (APM)

JAMES BEEKS,

Defendant.

**MOTION FOR STATUS CONFERENCE AND FARETTA COLLOQUY;
MOTION TO WITHDRAW AS COUNSEL FOR JAMES BEEKS**

Undersigned counsel hereby move to withdraw from their representation of James Beeks. Mr. Beeks has requested that his counsel withdraw and informed his counsel that he intends to represent himself moving forward. Accordingly, his counsel now file this motion to request that the Court schedule a status conference and conduct a *Faretta* colloquy to inquire whether Mr. Beeks is waiving his right to counsel. In the event that the Court concludes that Mr. Beeks has done so, then undersigned counsel request that the Court permit them to withdraw.

A status conference is needed to put on the record how Mr. Beeks wishes to proceed in this case. Undoubtedly, Mr. Beeks “has a constitutional right to represent himself at trial”; but, to invoke it, he must “knowingly, intelligently, and voluntarily waive[] his Sixth Amendment right to counsel.” *See United States v. Gewin*, 417 F.3d 197, 198 (D.C. Cir. 2006) (citing *Faretta v. California*, 422 U.S. 806 (1975)). To understand whether Mr. Beeks truly is waiving his right to counsel, the Court needs to conduct a “*Faretta* colloquy” – a

“short discussion on the record about the dangers and disadvantages of self-representation.” *United States v. Wright*, 923 F.3d 183, 188 (D.C. Cir. 2019) (internal quotation marks omitted). The Court has discretion in crafting the content of its colloquy, but it must “address[] the core elements of the defendant’s concern” with existing counsel’s representation. *See id.* at 190 (internal quotation marks omitted).

This Court can permit undersigned counsel to withdraw without running afoul of the concerns set out in Local Rule 44.5(d). That rule provides that “[t]he Court may deny a motion to withdraw if the attorney’s withdrawal would unduly delay trial of the case or be unfairly prejudicial to any party, or otherwise not be in the interests of justice.” LCrR 44.5(d). Undersigned counsel will ensure that Mr. Beeks has access to the defense case file in this matter and the discovery.¹ He will have two months to prepare for his February 1, 2023, trial. Should all defendants in this matter proceed to trial, then this Court might choose to place Mr. Beeks in the latter trial group in order to give him additional time to prepare. And, to avoid any risk of prejudice and in the interest of justice, the Court could appoint local standby counsel. *See McKaskle v. Wiggins*, 465 U.S. 168, 183–84 (1984).

Accordingly, for all these reasons, undersigned counsel ask the Court to schedule a status conference and conduct a *Faretta* colloquy in this matter. If the Court finds that Mr. Beeks has knowingly, intelligently, and voluntarily waived his Sixth Amendment

¹ The discovery in this matter is subject to a Protective Order, and it may be necessary to modify that Protective Order as to Mr. Beeks in order to ensure that he has access to all relevant materials and information in his case.

right to counsel, then undersigned counsel further request that the Court permit them to withdraw.

Dated in Madison, Wisconsin, this 27th day of November, 2022.

Respectfully submitted,

/s/ Jessica Arden Ettinger

Jessica Arden Ettinger (D.D.C. Bar No. D00483)

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CERTIFICATE OF SERVICE

On this 27th day of November 2022, I filed the foregoing document electronically with the Clerk of the Court for the United States District Court for the District of Columbia by using the Court's CM/ECF system, which will provide electronic service on all counsel of record.

/s/ Jessica Arden Ettinger
Jessica Arden Ettinger