

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES :
v. : Crim. No. 21-725 (RDM)
KENNETH MASSIE :

UNOPPOSED MOTION TO CONTINUE SENTENCING HEARING

COMES NOW defendant, Kenneth Massie, through undersigned counsel, Stephen F. Brennwald, and in support of his Unopposed Motion to Continue Sentencing Hearing, states as follows:

On October 21, 2022, Mr. Massie pled guilty to one count of Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. 5104(e)(2)(G).

He was scheduled to be sentenced by this Court on Thursday, February 23, 2023, at 9:00 a.m., but that hearing was continued because undersigned counsel was in an Oathkeeper trial before the Honorable Amit P. Mehta.

In an earlier filing, counsel indicated that the Oathkeeper trial was expected to end around March 9 or 10, 2023. Because of that, sentencing was pushed back to April 5, 2023.

Unfortunately, the trial did not end until March 21, 2023 – 10 days ago - and since then counsel has been scrambling to address all of the deadlines that were pushed back because of the seven-week trial. This is one of those deadlines.

Despite counsel's trial schedule, Mr. Massie and counsel have been in touch with each other throughout the past several months, and just two days ago, Mr. Massie asked counsel whether it would be too late for him to submit some additional letters and information to the Court.

The bottom line here is that counsel needs about two more weeks to gather materials from Mr. Massie and prepare a comprehensive sentencing memorandum.

Although the plea in this case was to a misdemeanor, rather than a felony, counsel obviously takes the sentencing very seriously, and intends to submit a detailed memorandum that includes a comparison of this case to other similar cases involving the same offense of conviction.

Moreover, the government is asking this Court to send Mr. Massie to prison for 14 days – a thought that frightens Mr. Massie. Thus, undersigned counsel needs to do everything possible to present this Court with alternatives to that recommendation.

In light of the foregoing, defendant asks that the sentencing hearing set for next Wednesday, April 5, 2023, be vacated, and that the hearing be re-set to a date sometime during the week of April 17 or 24, 2023, depending on everyone's availability.

Counsel regrets having to ask for this extension, but submits that it is reasonable in light of the delay occasioned by an unusually lengthy trial, and the backlog of work that resulted therefrom.¹

The United States does not oppose this request.

WHEREFORE, for the foregoing reasons, as well as for such other reasons as may appear to this Court, defendant asks that the sentencing hearing set for Wednesday, April 5, 2023, be vacated, that a new hearing be set for a date to be selected, and for any other relief this Court deems proper.

¹ To “complete the picture,” counsel also adds that in the months since the October 21, 2022, plea hearing, counsel has suffered from three different medical conditions (acute kidney failure, Covid, and then acute bronchitis) that, together, knocked counsel out of action for a total of 7 weeks.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by ECF, this 31st day of March, 2023, to all counsel of record.

/s/

Stephen F. Brennwald