

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
 v.)
)
 ALAN FISCHER III,)
 BRIAN BOELE, et al.)
)
 Defendants.)

Case No. 1:22-CR-00011 (RJL)

DEFENDANTS' REPLY TO GOVERNMENT OPPOSITION

COMES NOW the Defendants, ALAN FISCHER III, and BRIAN BOELE, by and through undersigned counsel, and respectfully submit their reply in opposition to the Government Response at ECF No.123, and in support of their original motion, and move this Court to grant their motion at ECF No. 120. Mr. Fischer and Mr. Boele state the following in support of this reply:

In their motion, Mr. Boele and Mr. Fischer propose a new data set and use of offered methodology that is not a stack of poll percentages as have been previously submitted and denied in every other January 6th case. This is a new data methodology to show prejudice. Or perhaps it will not show prejudice and there will be no motion. Mr. Boele and Mr. Fischer are not wasting anyone's time here by submitting what has been denied 100% by every judge to date. The government's argument addresses nothing about what we asked for in the motion, and insinuates we are just taking a new poll.

Without caring to discuss the proposed data set and a new methodology we just learned about and are engaging with, the government launched a foot-stomping opposition because of the date. We said we cannot get the results by July 24, 2023. Further, the government's argument that any defendant has had over a year is specious because discovery has not been available for a year.

Trial results have not been available for a year outside of a trickle. The methodology with external assistance that we are examining was not available for a year.

There is no trial date set and the government does not propose any legal argument as to who may be prejudiced or why Mr. Fischer's and Mr. Boele's motion is not in the interests of justice.

Our understanding is that Pretrial Rule 12-listed motions are at issue because the original discussion that was the genesis of setting a date for pretrial motions revolved around severing defendants. If we were mistaken, then it is our communications misunderstanding. That is not cause for the response which provides no argument as to why the government is prejudiced or this is not in the interests of justice.

CONCLUSION

Because the government's response gives no legitimate reason why time should not be allowed for the Defense to explore new methodology to ascertain prejudice as a reason to transfer venue, the Court for good cause and in the interests of justice should grant the motion at ECF 120. No party is prejudiced if the motion is granted.

Wherefore, for good cause shown, and for any other reasons the Court may decide, Mr. Fischer and Mr. Boele request that the Court issue the proposed order in ECF No. 120.

Dated July 24, 2023

Respectfully submitted,

/s/ Carolyn A. Stewart

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CERTIFICATE OF SERVICE

On this 24th day of July 2023, a copy of the foregoing was served upon all parties as forwarded through the Electronic Case Filing (ECF) System.

/s/ Carolyn A. Stewart

Carolyn A. Stewart

Defense Attorney