

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. : Cr. No. 21-738 (BAH)

MICHAEL OLIVERAS : MOTION TO WAIVE DEFENDANT'S
PRESENCE AT PRETRIAL STATUS
CONFERENCE 1/20/2023

Defendant. :

TO: Ashley Akers, AUSA
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COUNSEL:

PLEASE TAKE NOTICE that the defendant, Michael Oliveras, through his attorney, Lori M. Koch, Assistant Federal Public Defender, shall move before the Honorable Beryl A. Howell, Chief United States District Judge for the District of Columbia, on these papers immediately (two days prior to Friday, January 20, 2023) or as soon as possible, for an Order waiving Defendant's presence at the pretrial status conference scheduled for January 20, 2023, pursuant to Federal Rule of Criminal Procedure 43(b)(3), for the following reasons, as required by this Court's Standing Order for Criminal Cases:

1. On Friday, January 13, 2023 undersigned counsel called counsel for the Government Ms. Akers, to discuss the possibility of a guilty plea in this case, which charges defendant with

four misdemeanors offenses. Ms. Akers advised she would speak with her supervisor, and was optimistic this could be done, albeit with the terms yet to be arranged.

2. After not hearing back by Tuesday, January 17, 2023, undersigned counsel both called and sent an email to Ms. Akers inquiring as to the status of the request for a plea agreement.
3. On January 17, 2023 at 5:26 p.m., I received an email response indicating that the prior plea offer was “off the table,” and that instead “during our trial preparations this weekend, we discovered additional evidence from bodyworn footage showing Mr. Oliveras’ conduct on the upper West terrace. [reference deleted]. My office is now considering seeking a superseding indictment charging 18 USC 231 (civil disorder) based on this conduct. I’ll be in touch with additional information as this develops.”
4. As of today, January 18, 2023, the Government still has not advised whether it intends to seek a superceding Indictment. While Mr. Oliveras planned to appear and enter a guilty plea this Friday, January 20, 2023 (to at least one misdemeanor offense), or to attend the Final Pretrial Conference before the Court, it now appears that the Government may be seeking to delay the current Trial Date, set now for either February 21, 2023 or February 27, 2023 to seek an Indictment.
5. Because it appears that the scheduled Final Pretrial Conference may not be a Final Pretrial Conference, but rather a “conference or hearing on a legal question” (or scheduling), Mr. Oliveras’s appearance would not be required pursuant to Fed.R.Crim.P. 43(b)(3).
6. Mr. Oliveras works and is paid on an hourly basis and supports himself and his two teenage children as necessary. It is a significant financial loss for him to miss a full day of work, which is required for him to travel and appear in the District of Columbia. Since this matter appears to be heading for a trial, which will require multiple days off from work, it is respectfully requested that Mr. Oliveras’s appearance be waived for this Friday’s

proceeding.

7. Counsel for the government **opposes** this request to waive the defendant's presence at the Friday, January 23, 2023 conference.

Respectfully submitted,

/s/ Lori M. Koch

Lori M. Koch, Esq.

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DATED: January 18, 2023