

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE UNITED STATES OF AMERICA §
§
vs. § **CAUSE NO.: 1:22-CR-15**
§
ELMER STEWART RHODES, III §

**MOTION TO JOIN CALDWELL’S MOTION FOR CONTINUANCE , CHANGE
OF VENUE AND ADDENDUM**

COME NOW PHILLIP LINDER and JAMES LEE BRIGHT, attorneys for Elmer Stewart Rhodes in the above referenced case number and join in with Caldwell’s Motion for Change of Venue and Continuance filed by defendant Thomas Caldwell under Docket # 193 on July 14, 2022, and add the following addendum:

I.

Counsel for Mr. Rhodes would like to add additional claims as a further basis for this Court to grant the requested Motion for Continuance. Since Rhodes’ incarceration in January of 2022 he has been placed in three different detention facilities, each with a different level of access for Rhodes to his discovery and his legal team. Since being placed in the Alexandria Detention Facility in March of 2022, Rhodes has been virtually unable to view the evidence that all of the other defendants have access to. Up until late June of 2022 Rhodes had no access to any of the digital discovery. Rhodes was only allowed paper copies of what his Counsel could send him in the mail or deliver to him personally.

II.

As the Court is aware, Rhodes was recently allowed to have a laptop with the discovery in the jail. However, the jail only allows Rhodes to have access to this laptop two hours per week. As the Court is also aware, there are several terabytes of discovery in this case. At the current working arrangement with the Alexandria Detention Center Rhodes would have only had approximately twenty hours of time to view the multiple terabytes of evidence that the government has provided while the other defendants have had virtually unlimited access to the evidence and the ability to process it with their attorneys. His location and lack of access to the evidence continues to put him at a great disadvantage as compared to the other co-defendants.

III.

Additionally, during the January 6th Select Committee hearings on July 12, 2022, the Committee through its members and witnesses, made several assertions connecting the Oath Keeper defendants with the Proud Boys defendants in *United States v. Nordean*. As the Court knows, the *Nordean* case was continued until December based in part upon the negative publicity generated against the Proud Boys by the Select Committee. In that Court's opinion the Judge provided:

“Given all the above, the Court finds that there is good cause to continue the trial of all Defendants until December 12, 2022, at least because of (1) the prejudicial publicity stemming from the ongoing congressional hearings and (2) the chaos that would be caused if, as the Government expects, the Committee releases a thousand potentially relevant interview transcripts to the public in early September, in the middle of the currently scheduled trial.”

The Oath Keepers dispute that they worked in concert in any activities with the Proud Boys. The Select Committee has prejudiced the jury pool by falsely connecting these organizations. In addition, the Committee has also prejudiced the Oath Keepers by calling them “racists and white nationalist groups that are dangerous extremists.”

Attached to this Motion is a complete copy of all Select Committee hearing transcripts.

Finally, a major allegation against the Rhodes defendants involves 18 U.S.C. Section 1512. Recently, the Government in *United States v. Garrett Miller*, 21-cr-00119 (CJN), filed an interlocutory appeal to the D.C. Circuit on the Section 1512 issue. A continuance would allow additional time for a D.C. Circuit's ruling on whether Section 1512 is applicable to the facts of the instant case.

WHEREFORE, Counsel for ELMER STEWART RHODES pray that this Court grant the Request for Continuance and continue this trial until After January 1, 2023.

RESPECTFULLY SUBMITTED,

/s/ PHILLIP A. LINDER
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

I certify that I conferred with Kathryn Rakoczy, counsel for the government regarding this Motion and that she does oppose.

/s/ PHILLIP A. LINDER
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the attached pleading was served on the Assistant United States Attorney Kathryn Rakoczy via ECF on July 16, 2022.

/s/ PHILLIP A. LINDER
ATTORNEY FOR DEFENDANT