

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 23-cr-160-RC
	:	
DANIEL BALL,	:	
	:	
Defendant.	:	

OPPOSITION TO DEFENSE MOTION TO EXTEND DEADLINES

The United States of America, by and through the United States Attorney for the District of Columbia, respectfully opposes Mr. Ball’s motion to extend the deadline by which he must file pretrial motions and instead requests an intermediary solution setting a modified briefing schedule that will allow the parties sufficient time to prepare but not risk unnecessary delay and resources in preparing for trial.

I. Relevant Procedural Background

On May 10, 2023, a grand jury indicted Mr. Ball for his actions at the United States Capitol on January 6, 2021. ECF No. 11. The charged offenses include his violent assaults on law enforcement officers—using an explosive device—during a civil disorder. Following a detention hearing that concluded on May 31, 2023, Mr. Ball was ordered detained pending trial. ECF No. 14.

Mr. Ball has been represented by counsel since May 18, 2023, *see* Minute Entry dated May 18, 2023, and by his current counsel since July 19, 2023, *see* Minute Order dated July 19, 2023. Within approximately two months of current counsel’s appearance, the government provided case-specific discovery.

The parties conferred and jointly submitted a proposed scheduling order allowing for motions filed under Fed. R. Crim. Pro. 12 to be filed on or before February 16, 2024. ECF No. 17-1 (proposed scheduling order). On November 28, 2023, this Court ordered the parties to submit a revised proposed pretrial scheduling order. *See* Minute Entry dated November 28, 2023. The parties did so, and on December 23, 2023, this Court entered the parties' joint proposal. ECF No. 19.

II. This Court should deny the request for more time.

The defendant now seeks to delay the filing deadline for suppression motions—which are covered by the Rule 12 filing deadline—by more than four months, from March 22, 2024, to July 31, 2024. For the following reasons, the government submits that this extension is too long.

Under Federal Rule of Criminal Procedure 12(c)(2), “At any time before trial, the court may extend or reset the deadline for pretrial motions.” But as noted by Hon. Emmet G. Sullivan in the context of a civil case, “[a] Scheduling Order is intended to serve as the unalterable road map (absent good cause) for the remainder of the case.’ It ‘is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril.’” *Artis v. Yellen*, 307 F.R.D. 13, 21 (D.D.C. 2014) (internal citation omitted).

The road map agreed by the parties and imposed by this Court's Order was designed to provide a resolution to fundamental legal disputes with enough time before trial to save the parties' and the Court's resources. *See* ECF No. 17 (Joint Report). The Federal Rules of Criminal Procedure require that certain types of motions—including motions to suppress evidence—must be filed before trial precisely because they may have a great impact on the trial strategy or even the feasibility of proceeding to trial. Further, motions to suppress may require an evidentiary hearing to resolve any disputed facts. These disputes must be resolved

sufficiently in advance of trial. A deadline of July 31, 2024, to *begin* the briefing process for motions to suppress is simply too close to ensure trial can proceed on September 24, 2024, allowing for the need for diligent preparation.

III. Government's Proposed Compromise Schedule

To alleviate any burden on the defense and to allow counsel adequate time to prepare, but also to maintain sufficient time to resolve any motions that may require a hearing and adequately prepare for trial, the government proposes the following alternative schedule:

- The schedule for filing pretrial motions, other than motions to suppress under Rule 12(b)(3)(C) and motions in limine, along with responses and replies, shall remain in effect according to the Court's previously entered scheduling order (ECF 19, ¶ 1).
- Motions to Suppress under Rule 12(b)(3)(C) shall be filed by April 19, 2024, with responses due by May 3, 2024, and any replies due May 10, 2024.
- The hearing on the filed motions shall remain set for May 21, 2024, at 10:00 am.
- The schedule for expert notice and related motions, responses, and replies, shall remain in effect according to the Court's previously-entered scheduling order (ECF 19, ¶ 3).
- The deadline to submit any motions in limine shall be continued by two weeks, at the request of the defendant, from July 17, 2024, to a revised deadline of July 31, 2024, with responses due by August 14, 2024, and any replies due on or before August 21, 2024 (revising ECF 19, ¶ 5).
- To accommodate the defendant's request for additional time to file motions in limine, the deadline for the parties to submit a joint pretrial statement shall be continued by one week to August 23, 2024 (revising ECF 19, ¶ 6).

- The pretrial conference scheduled for September 16, 2024, and the trial scheduled to commence on September 24, 2024, shall remain unchanged (ECF 19, ¶ 7, 8).

IV. Conclusion

For the reasons stated herein, the government respectfully requests that this Court deny Mr. Ball's request to extend the Rule 12 filing deadlines by more than four months.

Respectfully submitted,

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Date: March 18, 2024

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