

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

)

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v.

)

Criminal No. 1:23-cr-00160-RC-1

DANIEL BALL,

)

Defendant.

)

**REPLY TO THE GOVERNMENT’S OPPOSITION TO
DEFENDANT’S MOTION TO EXTEND PRETRIAL MOTIONS DEADLINE
AND CONTINUE PRETRIAL AND EXPERT MOTIONS HEARINGS**

Daniel Ball, by and through undersigned counsel, respectfully files this Reply to the Government’s Opposition to his Motion to Extend Pretrial Motions Deadline and Continue Pretrial and Expert Motions Hearing. Undersigned counsel does not agree with the government’s characterization or treatment of various issues. In any event, undersigned counsel will simply focus its Reply on select issues.

In its Opposition, the government ignores many circumstances that, even alone, warrant an extension of filing deadlines and hearing continuances. The government failed to address the fact that undersigned counsel now has a new trial in June and that undersigned counsel agreed to the earlier pretrial motions date of April 19, 2024 so long as undersigned counsel did not have a trial in June. Still, as discussed in her Motion, undersigned counsel prefaced her consent to a pretrial motions deadline of April 19, 2024 by saying she still might need more time. As explained, undersigned counsel now has a new trial in June and needs more time to file pretrial motions on behalf of Mr. Ball given the schedule for the other trial (and related dates) and given that

undersigned counsel does not yet have access to pertinent discovery/information that would allow her to file comprehensive pretrial motions, according to her most recent review.¹

Even then, undersigned counsel had to restart her review of discovery in the past month and a half or so. There are at least 1,336 items that the government produced, in addition to the items undersigned counsel had to pull on her own; some of these items include several hours of video/audio. Moreover, in recent weeks, undersigned counsel has been traveling for her other cases and, therefore, has had much more limited opportunities to review discovery during this time, particularly when there is a protective order in place and no way to prevent others from observing her computer or paperwork while on airplanes, etc.

The government emphasizes the length of time undersigned counsel has had access to the discovery as a reason to reject her request. The government, again, ignores some crucial context. For instance, a significant amount of the time counsel has been on the case has involved efforts to resolve the case pretrial; a different style of discovery review is employed in this context. Moreover, the vast majority of the discovery in this case was provided to counsel while undersigned counsel was out of pocket for two weeks at the end of September last year. And,

¹ For instance, undersigned counsel now understands that the government has not disclosed any of the grand jury materials in this case, and undersigned counsel believes certain grand jury materials are needed for purposes of Mr. Ball's motion to dismiss. Unless the government agrees to file a motion with the Court to allow for such disclosure, undersigned counsel will be filing a motion to make the appropriate disclosure request within the coming days.

Moreover, depending on the government's position relating to producing other requested discovery, undersigned counsel might have to file a motion to compel in order to allow her to utilize that respective information to inform the forthcoming motion to dismiss and motion to suppress.

Further, contrary to undersigned counsel's prior understanding, the government has not disclosed all of the expert reports and/or substantive statements to the defense team; the government's expert opinions are crucial for purposes of the defense experts' analyses which will be exhibits in the motion to dismiss, particularly in relation to the forthcoming selective prosecution argument.

Lastly, undersigned counsel would also prefer to have the opportunity to review the physical discovery in this case prior to filing any additional pretrial motions given the substantive nature of these motions and the types of arguments that undersigned counsel anticipates.

despite her best efforts, undersigned counsel was without all of the discovery and most case materials for Mr. Ball's case for approximately two months while undersigned counsel finalized case transfers with her prior firm.²

Additionally, Mr. Ball, although on the waitlist for a computer at the Central Treatment Facility, has not yet received access again following the termination of his access last year once the time-period for his computer use timed out.³

Mr. Ball has the right to counsel of his choice. Counsel is not intentionally delaying the proceedings. And, counsel's requests are necessary for Mr. Ball to receive adequate representation by counsel.

To alleviate the government's concern about counsel making another request to change the schedule and to fully engage in briefing before the dates set in this case, particularly since it appears undersigned counsel's June case may actually proceed to trial, undersigned counsel believes it would be entirely appropriate to more or less completely reset the pretrial schedule (and even have a hearing on this issue if the Court is inclined), particularly in light of the outstanding information/discovery to be obtained to allow undersigned counsel to file comprehensive motions.

Accordingly, Daniel Ball, by and through undersigned counsel, respectfully requests the aforementioned relief and any other the Court deems appropriate.

² As aforementioned, some of the materials were not able to be located by her prior firm. Accordingly, efforts were hindered and therefore delayed in relation to seeking a modification/removal of protective orders in other cases so that undersigned counsel could reference some of the facts in those cases in public filings.

³ Of additional significance, when Mr. Ball last had access, discovery review pertained mainly to the context of plea negotiations.

Respectfully submitted,

_____/s/_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 26th day of April 2024, I have served this Reply upon all parties in this matter through the CM/ECF system.

_____/s/_____
Amy C. Collins