

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE**

UNITED STATES OF AMERICA,)

)
)
Plaintiff,)

v.)

MICHAEL LEE FOSTER)

)
)
Defendant.)

**Case No. 2:19-CR-193
JUDGES CORKER / WYRICK**

MOTION TO CONTINUE PRETRIAL MOTIONS DEADLINE

COMES defendant MICHAEL LEE FOSTER through counsel and respectfully moves this Court to enter an Order continuing the pretrial motions deadline currently set for May 18, 2020, as set forth in the Court’s Order, filed February 12, 2020 [Doc. 17]. The trial in this matter is currently scheduled on July 8, 2020.

In further support, the following is stated:

(1) Mr. Foster was charged via Criminal Complaint on November 5, 2019 [Doc. 1] and Indictment on November 26, 2019 [Doc. 2]. His initial appearance before the Court was on January 3, 2020, and undersigned defense counsel filed a notice of appearance on January 28, 2020 [Doc. 10].

(2) Undersigned defense counsel made a detailed discovery request to the government on February 4, 2020 and received initial discovery on February 24, 2020 and February 28, 2020. Defense counsel has also been notified by the government that more discovery is forthcoming. The discovery already produced by the government contains a large volume of electronic discovery materials and those productions are in the process of being reviewed by defense counsel.

(3) Given the complex nature of the case, the seriousness of the allegations, the anticipated volume of the additional electronic discovery materials, and the defense investigation

and preparation that must be undertaken, undersigned counsel needs additional time to prepare, adequately advise the defendant, and prepare for the filing of pretrial motions.

(4) Further, due to the COVID-19 pandemic, defense counsel has been unable to schedule a subsequent in-person contact meeting with defendant to discuss his case and to review the voluminous discovery materials. Given the nature of the materials, reviewing them with the defendant in an effective fashion will require multiple in-person contact visits where some combination of counsel, counsel's staff, and the defendant will be able to review together and discuss the discovery materials on an electronic device. The defendant is presently housed at the Southwest Virginia Regional Jail Authority in Abingdon, Virginia, and that facility is not currently allowing contact attorney visits. Further, while counsel and counsel's staff are not knowingly infected or showing symptoms of COVID-19, even if contact visits were allowed, counsel or counsel's staff would not want to risk unknowingly infecting the defendant, corrections staff or the jail population or potentially infecting themselves from contact with the defendant, the jail population, or corrections staff in contravention of current CDC guidelines and directives or health recommendations of the state and local governments in Tennessee and Virginia.

(5) For these reasons, defense counsel has been unable to effectively develop and investigate any leads from a complete review of all discoverable materials, conduct other necessary defense investigation, effectively and fully confer with the defendant, determine any pretrial motions to be filed, determine any factual or legal defenses, and otherwise complete the essential defense functions in this matter necessary to the filing of pretrial motions within the current deadline.

(6) Defense counsel is authorized to represent that counsel for the government has no objection to this motion.

(7) This motion is not submitted for the purpose of procrastination or unreasonable

delay in this matter or some other improper purpose, but rather is made so that counsel may provide the defendant with the effective assistance of counsel to which he is entitled, that the defendant receive zealous representation, and that the defendant, through counsel, is able to adequately review discovery, research potential issues to be raised via motion, and investigate and develop evidence necessary to present a defense to the charged offenses. 18 U.S.C. § 3161(h)(7)(B); Tenn. Sup. Ct. R. 8, Rules of Prof. Conduct; U.S. Const. Amend. VI.

Respectfully submitted this 18th day of May, 2020, by:

RITCHIE, DILLARD, DAVIES & JOHNSON, P.C.

/s/Stephen Ross Johnson

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