

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 24-CR-80103-CANNON

UNITED STATES OF AMERICA

v.

DUSTIN SEAN McCABE,

Defendant.

UNOPPOSED MOTION FOR ONE-WEEK CONTINUANCE OF MOTIONS HEARING

The United States of America, through the undersigned Assistant United States Attorney, moves unopposed for the motions hearing currently set for 9:30am on January 17, 2025, *see* DE 33, to be continued by one week, to January 24, 2025. In support, the Government respectfully submits the following:

BACKGROUND AND CASE STATUS

1. Mr. McCabe is charged with one count of seaman's manslaughter, in violation of 18 U.S.C. § 1115, one count of making a false statement within the jurisdiction of an agency of the United States, in violation of 18 U.S.C. § 1001(a)(2), and three counts of wire fraud, in violation of 18 U.S.C. § 1343. DE 3.

2. On December 16, 2024, this Court set trial for February 24, 2025, while setting a pretrial motions deadline of December 31, 2024. DE 26. On December 30, 2024, the Government filed a motion *in limine*, DE 28, and a trial brief, DE 29. The following day, December 31, Mr. McCabe filed a motion to sever, DE 30. The Government filed a response to that motion to sever on January 6, 2025, and the Court issued an order requiring the defense to file its reply brief by January 13, 2025, DE 32.

3. On January 7, 2025, this Court entered an order setting a hearing on both the Government's motion *in limine* and the defense's motion to sever, with that hearing set for January 17, 2025, at 9:30am in Fort Pierce. DE 33.

4. In terms of outstanding response deadlines for the motions at issue in the hearing, the defense has until January 14, 2025 (not counting New Year's Day), to file a response to the Government's motion *in limine*, and the Government will have until January 22, 2025 (not counting Martin Luther King, Jr. Day on January 20), to file its reply brief.

REQUESTS AND BASIS FOR REQUESTS

5. Through this Motion, the Government respectfully requests that this Court continue the motions hearing currently set for January 17, 2025, by one week, to January 24, 2025. The Government submits that there are two reasons for this request that merit the Court continuing the hearing.

6. First, scheduling conflicts exist for the Government and the defense necessitating the full week of continuance. Specifically, the undersigned Assistant United States Attorney's spouse has a time-sensitive medical appointment the morning of January 17th in South Miami that the undersigned needs to attend, and Mr. McCabe's counsel Mr. Terrence O'Sullivan has a trial that will proceed beginning January 21st that (he anticipates) will conclude on January 23rd.¹

7. Second, continuing the January 17 motions hearing by a full week would permit the parties to fully brief the motion *in limine*, as set forth in Paragraph 4 above, before this Court holds a hearing as to that motion.

¹ As previously noted, January 20 is a federal holiday.

8. The undersigned Assistant United States Attorney has conferred with Mr. McCabe's counsel, Ms. Calisha Angeline Francis and Mr. Terrence O'Sullivan, who advised that Mr. McCabe does not oppose this request.

9. A proposed order is attached and will be emailed to chambers.

WHEREFORE, the United States respectfully requests that the Court continue the motions hearing set for January 17, 2025, by one week, to January 24, 2025.

Date: January 8, 2025

Respectfully submitted,

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

By: /s/ Zachary A. Keller
ZACHARY A. KELLER
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CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that on January 7-8, 2025, I conferred with Terrence O'Sullivan and Calisha Angeline Francis, counsel for the Defendant, who indicated that the defense does not oppose this motion.

/s/ Zachary A. Keller
ZACHARY A. KELLER
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 8, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

/s/ Zachary A. Keller
Zachary A. Keller
Assistant United States Attorney