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UNITED STATES OF AMERICA

17 UNITED STATES DISTRICT COURT
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 RICHARD AYVAZIAN,
aka "Richard Avazian" and
20 "Iuliia Zhadko,"
MARIETTA TERABELIAN,
21 aka "Marietta Abelian" and
"Viktoria Kauichko,"
22 ARTUR AYVAZIAN,
aka "Arthur Ayvazyan," and
23 TAMARA DADYAN,
MANUK GRIGORYAN,
24 aka "Mike Grigoryan," and
"Anton Kudiumov,"
25 ARMAN HAYRAPETYAN,
EDVARD PARONYAN,
26 aka "Edvard Paronian" and
"Edward Paronyan," and
27
28

No. CR 20-579(A)-SVW-3

GOVERNMENT'S OPPOSITION TO
DEFENDANT ARTUR AYVAZIAN'S MOTION
TO CONTINUE SENTENCING FROM
OCTOBER 18, 2021, TO NOVEMBER 15,
2021 (ECF 997)

1 VAHE DADYAN,
2 Defendants.

3
4 Plaintiff United States of America, by and through its counsel
5 of record, the Acting United States Attorney for the Central District
6 of California, Assistant United States Attorneys Scott Paetty,
7 Catherine S. Ahn, and Brian Faerstein, and Department of Justice
8 Trial Attorney Christopher Fenton, hereby files its opposition to
9 defendant Artur Ayvazyan's Motion to Continue Sentencing from October
10 18, 2021, to November 15, 2021 (ECF 997). This opposition is based
11 upon the attached memorandum of points and authorities, the files and
12 records in this case, and such further evidence and argument as the
13 Court may permit.

14 Dated: September 29, 2021

Respectfully submitted,

15 TRACY L. WILKISON
16 Acting United States Attorney

17 SCOTT M. GARRINGER
18 Assistant United States Attorney
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19 /s/
20 _____
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26 Department of Justice Trial Attorney
27
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MEMORANDUM OF POINTS AND AUTHORITIES

Defendant Artur Ayvazyan has filed his second motion for a continuance (which would be the third continuance overall) of his sentencing date, originally scheduled for September 13, 2021.¹ The government informed defendant it would not oppose a modest additional continuance, from October 18 to November 1, 2021, in recognition that the presentence investigation report ("PSR") was disclosed to the parties ten days later than required under the governing rules. But defendant seeks two additional weeks beyond that date, relying on vague and conclusory assertions about the need for more time and comparisons to time allotted to defendants who are not similarly situated. The Court should deny defendant's second motion for a continuance for the following reasons.

First, the government advised defendant that it would agree to a continuance of sentencing to November 1, 2021, in light of the late disclosure of the PSR on September 23, 2021.² (ECF 994.) Defendant would have 39 days following disclosure of the PSR before sentencing, more than the minimum amount of time required. Defendant also would have more than one month before defendant's sentencing position would be due on October 25, 2021. Moreover, regardless of whether

¹ Prior to defendant's first motion to continue on August 26, 2021, the Court continued the sentencing date of defendant and his codefendants Richard Ayvazyan ("R. Ayvazyan"), Marietta Terabelian ("Terabelian"), and Vahe Dadyan from September 13 to October 4, 2021, in response to codefendants R. Ayvazyan's and Terabelian's oral request during the post-trial Kastigar hearing in this case on July 29, 2021. (ECF 821.)

² The government previously agreed not to oppose a two-week continuance of sentencing requested by defendant, from October 4 to October 18, 2021. (ECF 884.) As explained further below, the government agreed not to contest that request prior to codefendants R. Ayvazyan and Terabelian absconding from supervision on August 29, 2021.

1 defendant is sentenced on November 1 or November 15, his and the
2 government's objections to the PSR will be due on October 7, which is
3 two weeks after disclosure of the PSR. See Fed. R. Crim. Pro.
4 32(f)(1) ("Within 14 days after receiving the presentence report, the
5 parties must state in writing any objections, including objections to
6 material information, sentencing guideline ranges, and policy
7 statements contained in or omitted from the report."); L. Cr. R. 32-
8 3.2 ("Counsel must observe strictly the requirements of [Fed. R.
9 Crim. P.] 32(f) regarding objections to presentence reports."). A
10 continuance of sentencing to November 1, 2021, will provide defendant
11 more than the minimum time required for consideration of the PSR
12 under the governing rules and allow the parties to timely comply with
13 all of the filing deadlines in advance of sentencing.

14 Second, defendant claims that he requires "more than the minimum
15 time frame" in order "to provide effective assistance of counsel" but
16 does not provide any factual basis for that contention. (ECF 997 at
17 2-3.) Putting aside that defendant would be afforded four more days
18 than is required with a November 1 sentencing date, defendant's claim
19 is based solely on the barebones assertion that this is "a certified
20 complex case with multiple defendants, complicated alleged
21 connections between defendants, and even more complicated sources of
22 loss amounts." (Id. at 2.) But none of the facts or circumstances
23 of this case are new to defendant or his counsel.

24 Counsel have represented defendant since December 8, 2020 (ECF
25 66, 67), shortly after his arrest a little over one month earlier.
26 Counsel filed or joined numerous pretrial motions on behalf of
27 defendant, prepared for and represented defendant during a two-week
28

1 trial, including preparing defendant to testify at trial, and
2 submitted post-trial motions for judgment of acquittal or a new
3 trial. Counsel also has had access to discovery as the government
4 has timely made it available for the duration of the case, including
5 the trial exhibits that were marked and admitted during trial in June
6 2021. Defendant's mere allusions to "effective assistance of
7 counsel" and the case being "complicated" ignores the significant
8 amount of time counsel has already had to prepare for all aspects of
9 this case. Such conclusory assertions also do not provide any
10 specific basis as to how and why defendant will be prejudiced by a
11 November 1 sentencing date, particularly considering sentencing was
12 initially scheduled to proceed on September 13. (ECF 651.)

13 Third, defendant points to the amount of time counsel to two
14 other codefendants, Richard Ayvazyan ("R. Ayvazyan") and Edvard
15 Paronyan ("Paronyan"), may have to review their respective PSRs prior
16 to sentencing. (ECF at 3.) Defendant's attempt to draw comparisons
17 to his codefendants is irrelevant to the circumstances of his case or
18 the time defendant reasonably needs to prepare for sentencing, as
19 explained above.

20 Moreover, these other codefendants are differently situated.
21 The Court recently continued codefendant R. Ayvazyan's sentencing to
22 November 15 over the government's objection due to R. Ayvazyan's
23 flight from supervision and his counsel's stated need for more time
24 because they did not have the ability to meet with and discuss
25 sentencing matters or the PSR with their client. Here, defendant and
26 his counsel will presumably have full access to each other and the
27 PSR as they continue to prepare for sentencing. As for codefendant
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1 Paronyan, who pleaded guilty prior to trial, his sentencing was
2 originally scheduled for August 30 but was continued to September 27,
3 following disclosure of his PSR the same day the government had
4 already agreed not to oppose his initial request for a continuance.
5 (ECF 524, 803, 806-1 at ¶ 5, 859.) Whatever additional time counsel
6 to codefendant Paronyan may have had with the PSR prior to sentencing
7 is irrelevant to defense counsel's effective preparation here. This
8 is particularly the case considering defendant and his counsel
9 prepared for and put on a full defense at a hotly-contested trial for
10 which codefendant Paronyan and his counsel were not present.³

11 Finally, the government has a heightened concern about the risks
12 of non-appearance in this case in light of defendant's brother's and
13 sister-in-law's flight from supervision on August 29, 2021. The
14 government agreed not to contest defendant's initial request for a
15 two-week continuance on August 26, several days before his close
16 family members absconded. The government agrees not to contest a
17 further continuance here from October 18 to November 1, as such
18 additional time is required under the Federal Rules of Criminal
19 Procedure in light of the disclosure of the PSR on September 23. But
20 the government believes that sentencing should proceed no later than
21 is required under the governing rules given recent events in this
22 case.

23
24
25 ³ Notably, between the government's initial agreement not to
26 contest a two-week request for continuance (from October 1 to October
27 18) and its agreement here not to contest defendant's additional
28 request for two weeks, the government will be agreeing to the same
aggregate four-week continuance for defendant that it agreed to with
respect to codefendant Paronyan.

1 In sum, nothing defendant asserts in his second motion to
2 continue removes this case from the heartland of fraud cases that
3 proceed on the sentencing schedule governed by the Federal Rules of
4 Criminal Procedure. The Court should deny defendant's request to
5 continue sentencing to November 15, and instead should reschedule
6 sentencing for November 1, 2021, within the timeframe contemplated
7 and required by the governing rules.