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September 15, 2022

Via ECF

Honorable Mary Kay Vyskocil
United States District Judge for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: United States v. Chris Recamier, 21 Cr. 746 (MKV)

Dear Judge Vyskocil:

We respectfully oppose the Government's request to adjourn Mr. Recamier's sentencing until after his co-defendant's trial and request that the Court proceed with sentencing on October 17, 2022.

First, there is no reason for the delay. If called as a witness, Mr. Recamier would invoke his Fifth Amendment right not to testify. As such, there is no such testimony to be considered at Mr. Recamier's sentencing. Even if the Government did wish to seek recourse against Mr. Recamier for this hypothetical testimony, there are other, more appropriate means. To the extent the Government believes any of this hypothetical testimony was false, the Government could seek criminal prosecution for that testimony.

Second, the requested adjournment would have a material impact on Mr. Recamier. He is currently housed at MDC Brooklyn. The poor conditions at MDC have been widely reported during the pandemic, including frequent lockdowns and "electrical blackouts; broken sewage systems; inadequate food supplies; and rates of COVID-19 infection among detainees and staff that far exceed transmission levels outside of the facility." *United States v. Elias*, 2022 WL 125721, at *2 (E.D.N.Y. Jan. 13, 2022) (citing Status Rep. by Fed. Defenders, *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons*, No. 19-cv-660, ECF No. 240 (E.D.N.Y. October 13, 2021)).

Moreover, adjourning sentencing unfairly prejudices Mr. Recamier, as he has now pled guilty but his sentence remains uncertain. The Federal Rules of Criminal Procedure direct courts to "impose sentence without unnecessary delay." Fed. R. Crim. P. 32(b)(1). The Second Circuit has recognized that a "[d]elay in sentencing may leave the defendant, as well as the victim, in limbo concerning the consequences of conviction. It postpones the commitment of the defendant

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to corrections facilities, may have a detrimental effect on rehabilitation, and suspends the appellate review of error.”” *United States v. Ray*, 578 F.3d 184, 198 (2d Cir. 2009) (quoting 3 Charles Alan Wright et al., *Federal Practice & Procedure: Criminal* § 521.1 (3d ed. 2004) (alteration in original)).

While the Government downplays the delay it seeks, it pushes Mr. Recamier’s sentencing into November. Mr. Recamier pled guilty in June, exactly three months ago. The Government’s request could result in Mr. Recamier awaiting sentencing for a total of five months or more.

Accordingly, Mr. Recamier opposes the Government’s request to adjourn his sentencing.

Respectfully submitted,

/s/ Marc Greenwald

Marc Greenwald

cc: AUSAs Daniel Nessim and Juliana Murray