

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

Case No. 22-20290-CR-BLOOM(s)

UNITED STATES OF AMERICA

vs.

ERIC DEAN SHEPPARD

Defendant.

UNITED STATES' MOTION TO CONTINUE ORAL ARGUMENT DATE

The United States of America, through the undersigned Assistant United States Attorney, respectfully moves this Court, for a continuance of the date set for oral argument regarding the defendant's motions for judgment of acquittal and for new trial. In support thereof, the government states as follows:

1. On Saturday, March 16, 2024, the defendant filed a motion requesting oral argument on his post-trial motions for judgment of acquittal and for new trial (DE 220). In the motion, the defendant indicated his counsel's availability during the next several weeks before the sentencing date of May 8, 2024. Unfortunately, the defendant's counsel did not confer with the government before filing the motion, and the undersigned AUSA was not able to advise defense counsel regarding the government's schedule. On March 18, 2024, the Court granted the motion and scheduled oral argument for April 4, 2024 (DE 221).

2. In the government's view, oral argument is not necessary on the issues specifically raised in the defendant's motion for oral argument: aggravated identity theft under *Dubin v. United States*, 599 U.S. 110 (2023), and the fraud issue clarified in *Ciminelli v. United States*, 598 U.S. 306 (2023), both of which issues have been extensively briefed by the parties twice, after the

close of the government's case, and after trial. Regarding the scheduling of oral argument, the undersigned AUSA will be taking a prepaid family vacation out of town between March 27, 2024 and April 5, 2024.¹ In addition, co-counsel, AUSA Martinez will be on vacation the week of March 25, 2024 through March 29, 2024, and will be on leave April 17, 2024 through April 19, 2024. Government counsel have conflicts on the following days based on other hearings previously scheduled: April 10, 2024, 2-3 p.m.; April 24, 2024, 2-3 p.m.; April 29, 2-4 p.m. Finally, the undersigned AUSA will be out on medical leave April 25-26, 2024.

3. The defendant's counsel set forth their availability in the motion for oral argument. However, defense counsel have now indicated they are *not* available on April 24, 2024. Instead, the defendant's counsel can be available on April 8th and April 9th, assuming U.S. District Court Judge Williams allows defense counsel to attend the oral argument (from the trial scheduled for April 8, 2024).

WHEREFORE, the United States respectfully requests that this Court issue an order rescheduling the oral argument currently scheduled for April 4, 2024, to a date that is convenient for the parties and the Court.

Respectfully submitted,

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

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¹ The government previously moved to continue the sentencing date of April 5, 2024, based on the undersigned AUSA's unavailability during this time period. DE 210.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 18, 2024, I filed this motion and proposed order with the Clerk of the Court using CM/ECF.

s/Aimee Jimenez

Aimee C. Jimenez

Assistant United States Attorney