

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

CASE NO. 23-60173-CR-WILLIAMS/GRAHAM

UNITED STATES OF AMERICA

vs.

TRACY D. WADE,

Defendant.

**UNITED STATES' RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION TO EXTEND SURRENDER DATE [DE 282]
AND RENEWED MOTION TO EXTEND SURRENDER DATE [DE 285]**

The United States of America, by and through its undersigned counsel, hereby responds in opposition to the following motions filed on behalf Defendant Tracy D. Wade ("Defendant"): (1) "Motion to Extend Surrender Date by 30 Days," filed on July 5, 2025 (DE 282); and (2) "Renewed Motion for Extend Surrender Date by 30 Days," filed on July 23, 2025 (DE 285) (collectively, the "Motion to Extend Surrender").

1. The Court has sentenced Defendant to a total term of 90 days imprisonment for his convictions in this case (Counts 1, 2, 3, 4, 6, 7, and 10 of the Superseding Indictment, to run concurrently with each other). Sentence was imposed on March 12, 2025 (DE 239). Judgment was entered on March 20, 2025 (DE 242). The original surrender date ordered by the Court was April 14, 2025 (DE 242 at 2).

2. On April 9, Defendant filed a motion seeking to stay his 90-day term of imprisonment until the conclusion of his appeal (DE 247) (the "Motion to Stay"). On April 12, the government filed a written response in opposition thereto (DE 252). As set forth therein, which the government hereby incorporates by reference, the government opposed an extension of

Defendant's surrender date on the ground that the Bail Reform Act, 18 U.S.C. § 3143, requires Defendant to serve his sentence of imprisonment pending appeal of his conviction because Defendant did not identify any substantial question of law or fact for appeal that is likely to result in reversal, a new trial, or a reduced sentence.

3. On April 14, the Court held a hearing on the Motion to Stay. The Court deferred its ruling of the Motion to Stay, granted Defendant's *ore tenus* motion to extend his surrender date to July 28, 2025 (DE 253), and allowed Defendant additional time to file a supplement to the Motion to Stay in advance of the new surrender date.

4. On July 5, 2025, Defendant filed the instant Motion to request additional time to file its supplement, and in so doing, requested an additional 30 days for Defendant to surrender (i.e., until August 27, 2025). The basis for the request was to allow Defendant to obtain the transcripts of a hearing held on September 26, 2024 on Defendant's pre-trial motions to dismiss the Superseding Indictment (DEs 130 and 134), which the Court referred to United States Magistrate Judge Patrick M. Hunt.

5. The government's opposition to the relief Defendant seeks—an extension of his surrender date—has not changed. The government does not believe that Defendant is entitled to a stay of his sentence pending appeal, or any further extension of the surrender to make arguments for such a stay, because Defendant still has not identified, and cannot identify, any substantial question of law or fact for appeal that is likely to result in reversal, a new trial, or a reduced sentence.

6. The basis for Defendant's latest request to further extend his surrender date—to obtain and review transcripts of the pre-trial hearings on his motions to dismiss—does not change

the analysis. Those motions were fully briefed (*See* DEs 128, 130, 145, 150 and DEs 134, 146), and Judge Hunt issued a lengthy Report and Recommendation as to each motion (DE 166 and DE 167). Notably, Defendant did not file any objection to either Report and Recommendation, and the Court adopted the Report and Recommendations (DE 166 and 167) in their entirety. On its face, the record relating to Defendant's pre-trial motions does not raise a "substantial question" for purposes of granting a stay pending appeal under the Bail Reform Act because this record establishes that it is not a 'close' question or one that very well could be decided the other way." *United States v. Giancola*, 754 F.2d 898, 901 (11th Cir. 1985).

7. Accordingly, for these reasons and the reasons previously argued by the government on this issue, the United States respectfully asks the Court to deny Defendant's Motion to Extend Surrender (DEs 282 and 285).

Respectfully submitted,

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