

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

CASE NO. 23-60173-CR-WILLIAMS(s)

UNITED STATES OF AMERICA

vs.

**CAROLYN DENISE WADE and
TRACY D. WADE,**

Defendants.

**UNOPPOSED MOTION BY THE UNITED STATES FOR EXTENSION OF TIME
TO FILE MEMORANDUM IN CONNECTION WITH RULE 44(c) *GARCIA* HEARING**

The United States of America, by and through its undersigned counsel, hereby files this unopposed motion seeking an extension of time until **July 24, 2024**, to file a memorandum in connection with the Rule 44(c) *Garcia* hearing held on July 15, 2024, as to Defendants Carolyn Denise Wade and Trade D. Wade (collectively, “Defendants”). In support thereof, the United States asserts the following:

1. On September 14, 2023, a grand jury sitting in the Fort Lauderdale Division of this Court (the “Grand Jury”) returned an indictment (ECF No. 3) charging Defendant Carolyn Wade with one count of wire fraud, in violation of Tile 18, United States Code, Section 1343. Carolyn Wade proceeded to a jury trial, which commenced on May 13, 2024, in the Miami Division before Judge Graham (to whom Judge Williams, the assigned district judge, referred the case for trial). After the government rested its case-in-chief, the defense called one witness: Tracy Wade, the husband of Carolyn Wade. The case was submitted to the jury on May 20, 2024. After two days of deliberations, the jury was unable to reach a unanimous verdict. Judge Graham declared a mistrial on May 21, 2024.

2. On June 27, 2024, the Grand Jury returned a superseding indictment (ECF No. 88) (the “SS Indictment”). The SS Indictment added Tracy Wade as a new defendant and the following new charges: conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (as to both Defendants); wire fraud, in violation of Title 18, United States Code, Section 1343 (as to Tracy Wade); conspiracy to make false statements to the Small Business Administration (“SBA”) (as to both Defendants); and false statements to the SBA (as to both Defendants).

3. On July 1, 2024, Defendant Tracy Wade made an initial appearance in the Fort Lauderdale Division as to the SS Indictment. Attorneys Johnny McCray and Daryl Wilcox, who are permanent counsel of record for Carolyn Wade in this matter, each entered a temporary notice of appearance for Tracy Wade (ECF Nos. 95 and 96). After setting bond, the Court set a *Garcia* hearing pursuant to Rule 44(c) for July 15, 2024.

4. On July 15, 2024, United States Magistrate Judge Jared M. Strauss conducted the *Garcia* hearing outside the presence of the government.¹ At the conclusion of the hearing, Judge Strauss reserved final ruling on acceptance of Defendants’ waiver of conflict-free counsel to permit the government to submit by July 17, 2024, a memorandum and/or proffer to supplement the record concerning any potential or actual conflict arising from the proposed joint representation of Defendants in this matter by Mr. McCray and Mr. Wilcox.

¹ Assistant U.S. Attorney Alicia Shick appeared for the government. The undersigned Assistant U.S. Attorney, who is counsel of record and the lead attorney for the government in this case, was unable to appear at the hearing due to an unforeseen, travel-related conflict. Because of the undersigned’s unexpected absence, the government requested a one-day continuance, to which Defendants objected. The Court proceeded with hearing by taking testimony of Defendants, but advised it would permit the government to thereafter make a written submission.

5. Although the government takes no position on the proposed joint representation, the government believes that, to ensure that Defendants are fully informed of any potential or actual conflicts, and that any waiver of conflict-free counsel is made knowingly and intelligently consistent with *United States v. Garcia*, 447 F.3d 1327 (11th Cir. 2006), the Court should have the benefit of the transcript of Tracy Wade's testimony as a defense witness at Carolyn Wade's May 2024 trial. The government is therefore making this request for a 7-day extension of time (from July 17, 2024 to July 24, 2024) to allow the government to obtain the transcript of Mr. Wade's testimony, review it, and incorporate any pertinent facts into its memorandum.

6. The government ordered the transcript of Mr. Wade's testimony on July 16, 2024, and expects to receive it on or before July 20, 2024.

7. The requested extension will not cause any delay in the government's response to the standing discovery order, which was entered on July 15, 2024 as to Defendants (ECF Nos. 99 and 100).

Certificate Pursuant to Local Rule 88.9

Pursuant to Local Rule 88.9, undersigned counsel contacted counsel of record for Defendants, Attorneys Johnny McCray and Daryl Wilcox, by phone and email on July 16, 2024, for their position on the relief requested herein by the government. Defense counsel advised that they have no objection.

Conclusion

For the foregoing reasons, the United States of America respectfully asks the Court to grant this Motion and permit the government to file on or before **July 24, 2024**, a memorandum in connection with the Rule 44(c) *Garcia* hearing held on July 15, 2024, as to Defendants Carolyn Denise Wade and Trade D. Wade.

Respectfully submitted,

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