

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRACY D. WADE,

CASE NO. 23-CR-60173 (2)

Defendant.

MOTION TO EXTEND SURRENDER DATE BY 30 DAYS.

Tracy Wade was convicted at trial of conspiracy, wire fraud, and false statements counts related to a Paycheck Protection Program (PPP) loan disbursed to him post-Covid. The loan was for \$20,833 and there was no dispute that another person, Haydee Rivero, created false documents in a successful effort to have the funds disbursed when Mr. Wade would not have qualified for the loan with accurate documents. Ms. Rivero “assisted” many Broward Sheriff’s Office deputies in submitting such loans, resulting in media coverage and multiple criminal cases. The government alleged that Mr. Wade himself electronically signed the false loan paperwork, ultimately receiving \$20,833 in government funds which he was not entitled to. They also alleged he was involved in his wife and co-defendant Carolyn Wade’s PPP application, which also resulted in the disbursement of \$20,833, for a total loss of \$41,666. Ms. Rivero received a probationary

sentence without jail time for her role in orchestrating this fraud involving the Wades and multiple other people, some charged and some not. (SDFL case 23-cr-60124).

At sentencing, the Government requested a sentence of 14 months in prison and the defense requested a probationary sentence. The Court sentenced Mr. Wade to 90 days in jail followed by three years of probation.

The defense has filed an appeal, which has been opened as Eleventh Circuit case number 25-11132-DD. The surrender date has currently been set by this Court for July 28, 2025. This Court previously extended the surrender date after the defense filed a motion to stay the jail sentence and surrender date until after the resolution of the appeal. The Court did not rule on that motion, instead extending the surrender date, because the defense could not articulate that the appeal “raises a substantial question of law or fact likely to result in” reversal, a new trial, or a reduced sentence, as required by 18 U.S.C. § 3143(b). That was because undersigned counsel, who was retained after the trial loss for purposes of appeal, was not present at the trial and therefore could not state other than in general terms what issues would be raised on appeal. In order to do so, undersigned counsel will need to read the trial and pretrial hearing transcripts, consult with Mr. Wade, and perform legal research. Undersigned counsel anticipated he would be able to do so at least a week

in advance of the July 28, 2025 surrender date and was planning to file a renewed Motion to Stay with legal argument on the issues to be raised on appeal, as was articulated at the last court date. To undersigned counsel's recollection, at that court date (April 14, 2025), the Court stated that undersigned counsel should file such a motion at least a week in advance of the scheduled surrender date to give the government time to respond and the Court time to rule.

Undersigned counsel filed the Transcript Order Form on April 4, 2025. The defense ordered all trial transcripts (nine days) as well as all pretrial hearings (seven days) and the sentencing. Undersigned counsel promptly paid for the transcripts as directed by the various court reporters and the court reporters certified that the transcripts had been delivered. However, last week when undersigned counsel was reading the transcripts both to prepare to file the Initial Brief in the Eleventh Circuit and to file a renewed Motion to Stay surrender in this Court, undersigned counsel realized that he had not been sent two of the transcripts, from 9/23/24 and 9/26/24. 9/23/24 was a short hearing and has been transcribed, though the transcript has not been provided to undersigned counsel. It likely will be shortly. However, 9/26/24 was a lengthy and substantive hearing before Magistrate Patrick M. Hunt, per the Clerk's notes 1.5 hours, at which the

defense motion to dismiss and a motion for release of *Brady* materials were addressed shortly before trial began on 10/7/24.

This 9/26/24 transcript is necessary for undersigned counsel to review to identify appellate issues. Upon realizing the transcript had not been provided, despite it having been ordered and the court reporters having certified the Transcript Order Form had been fulfilled, undersigned counsel reached out to court reporter on June 29, 2025 to inquire as to the transcript. Court reporter Lance Steinbeisser responded that the magistrate's office had not docketed it properly and it had not been assigned to transcribe. It was digitally recorded and the audio was released to Mr. Steinbeisser on July 1, 2025. He said he could transcribe the court date now, and undersigned counsel paid him the estimate for transcription. It is supposed to be completed within 14 days of payment, which was July 3, 2025. However, undersigned counsel is on a preplanned family vacation currently and will not be back in the office until July 21, 2025. That is why undersigned counsel was working on this last week and had planned to finish the transcripts and identification of legal issues and renewed Motion to Stay by July 3, 2025, before leaving on vacation.

Undersigned counsel also contacted the Eleventh Circuit about this and they rescinded a previous briefing schedule as the transcripts were not complete, and will reissue a briefing order when the transcripts are

completed and filed. Presumably the Initial Brief will be due thirty days after the transcripts are completed and filed, meaning likely it will be due sometime in mid-August.

Due to this unforeseen issue which has prevented undersigned counsel from fully reviewing the transcripts and identifying legal issues to file a renewed Motion to Stay Surrender which addresses the merits of the specific legal issues to be raised on appeal and that they are substantial and likely to result in reversal, the defense moves for a 30-day extension of the current surrender date, until August 27, 2025. This would allow undersigned counsel to be able to file a renewed Motion to Stay at least a week in advance of that surrender date and the Court will be able to rule on the merits and whether Mr. Wade will need to surrender to serve his 90-day jail sentence prior to appellate resolution, which would almost certainly require him to serve the jail sentence before the appeal is decided.

Mr. Wade was a Broward Sheriff's Office deputy, working in BSO's detention facilities. He is 52 years old and has no criminal history whatsoever. He and his wife Carolyn have an 11-year old daughter who lives with them. He also has two adult children from a previous marriage. Mr. Wade is from and grew up in Miami, graduating from Carol City High School and Miami Dade College with an associate's degree. He is also a veteran of the US Marine Corps. Mr. Wade served the community as a

Broward Sheriff's Deputy, working in BSO's detention facilities from 1997-2022 (25 years). He also owns and operates a local small business, Wade Funeral Home in Hallandale Beach, and has since 2011.

During the pendency of this case (since July 1, 2024), Mr. Wade was out on bond/pretrial release and fully complied with the terms and conditions. He has also been fully compliant and had no issues while living in the community post-trial.

If this motion to extend the surrender date is granted, the defense believes there will be no prejudice to the Government. The jail sentence would remain in place and Mr. Wade will ultimately have to serve every day of it if it is not ultimately stayed pending appeal, or if it is stayed if he loses the appeal. However, Mr. Wade would be prejudiced if this motion is not granted, since he would have to serve a jail sentence without the Court ever being able to rule on the merits of whether he has a valid basis to stay the jail sentence pending appellate resolution pursuant to 18 U.S.C. § 3143(b). And, that would be no fault of Mr. Wade's or of the defense, since the lack of transcription of all ordered court dates was a court reporter or magistrate's staff error.

Therefore, Mr. Wade respectfully moves the Court for an order extending the surrender date until August 27, 2025

Government's Position.

Undersigned counsel emailed Assistant United States Attorney David Snider on July 1, 2025 to ask the Government's position on this motion. Undersigned counsel received an automated out of office reply stating Mr. Snider will be out of the office through July 11, 2025. Undersigned counsel therefore does not know the government's position on this motion.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all counsel of record in this cause, this 5th day of July, 2025, via CM/ECF.

Respectfully submitted,

/s/ Daniel Tibbitt
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