

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRACY D. WADE,

CASE NO. 23-CR-60173 (2)

Defendant.

**STATUS UPDATE AND RENEWED MOTION TO EXTEND SURRENDER
DATE BY 30 DAYS.**

Tracy Wade has been ordered to surrender to serve a 90-day jail sentence this coming Monday, July 28, 2025. On July 5, 2025, undersigned counsel filed a Motion to Extend Surrender Date by 30 Days. (D.E. 282). The Court has not yet ruled on that motion, nor has the Government responded to it, despite PACER stating that responses were due by July 21, 2025.

The basis for extending the surrender date is that Mr. Wade has an active appeal of the underlying trial conviction in the Eleventh Circuit (case 25-11132-D). The defense previously moved to stay the jail sentence until the appeal is concluded, as otherwise Mr. Wade will serve the entire 90-day jail sentence before receiving an appellate resolution. (D.E. 247). The Court previously stated it would consider staying the jail sentence upon a motion being filed discussing the substantial questions of fact or law likely

to result in appellate reversal, pursuant to 18 U.S.C. § 3143. Undersigned counsel was not able to do this previously because he was not trial counsel and had to order, receive, and read the trial transcripts. Undersigned counsel did promptly order the trial transcripts, but two transcripts, including a lengthy pretrial motion hearing from 9/26/24 where a motion to dismiss for prosecutorial misconduct and a motion alleging *Brady* violations were addressed, were not transcribed despite having been ordered. Per the court reporter when undersigned counsel followed up, this was because the 9/26/24 hearing had not been properly docketed by the clerk. The court reporter ultimately filed the 9/26/24 hearing transcript, after undersigned counsel followed up, on July 11, 2025. Undersigned counsel was on a preplanned family vacation out of the country and without reliable internet access from July 3-July 21, 2025.

Undersigned counsel now has all of the transcripts, which are voluminous, and can file a renewed motion to stay the jail sentence including legal argument next week, no later than August 1, 2025. Because the current surrender date would require Mr. Wade to begin serving the jail sentence before this motion could be filed and considered, and this is not Mr. Wade or the defense's fault as it is due to late transcription of a critical hearing, the defense renews the request to extend

the surrender date by 30 days, to allow the merits of the motion to stay the jail sentence pending appeal to be considered before the surrender date.

Undersigned counsel previously reached out to the Government for their position on extending the surrender date, and has not heard back. The Government also did not file a written response to the motion to extend the surrender date. The defense believes there would be no prejudice to the Government or anyone else from granting this motion, as the amount of time Mr. Wade would ultimately have to serve in jail if the his appeal is found non-meritorious will not change and Mr. Wade has been out in the community with no issues during the entire pendency of this case and presents no risk of flight or danger. On the other hand, Mr. Wade, a former law enforcement officer with no criminal or incarceration history, a young daughter, and a steady job as a funeral director, would be tremendously prejudiced if he has to serve a jail sentence in a federal detention facility on a case that is ultimately reversed on appeal. This Court should therefore extend the surrender date to allow it to hear the merits of the motion to stay the jail sentence and ultimately determine whether it views the appellate issues to be raised as potentially meritorious.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all counsel of record in this cause, this 23rd day of July, 2025, via CM/ECF.

Respectfully submitted,

/s/ Daniel Tibbitt
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