

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)
)
 v.) **CR NO 2:10-cr-186-MHT-001**
)
JARROD MASSEY)

**UNITED STATES' MOTION TO CONTINUE SENTENCING AND
OPPOSITION TO DEFENDANT'S MOTION FOR RELEASE**

Comes now the United States of America, by and through the undersigned counsel, and moves this Court to continue sentencing in the above-styled case until on or after April 1, 2011, and deny the defendant's Motion for Release on Previously Set Bond, as grounds therefore says as follows:

1. On or about December 20, 2010, the defendant entered into a Plea Agreement with the United States. Pursuant to the Plea Agreement, the defendant has agreed to assist the United States by providing truthful information when called upon to do so by the United States. The United States has agreed to evaluate the defendant's assistance when it is complete and, if appropriate, make a recommendation to the Court concerning the defendant's sentence under Section 5K1.1 of the United States Sentencing Guidelines. The defendant has not yet been sentenced. Pursuant to this Court's order dated March 18, 2011 the defendant is scheduled to be sentenced on November 15, 2011.

2. The United States respectfully requests that the Court continue the defendant's sentencing until on or after April 1, 2011. The defendant's assistance is not complete at this time. The United States believes that the requested continuance is necessary to properly evaluate the extent of the defendant's assistance as set forth in the Plea Agreement.

3. On January 14, 2011, the defendant filed a Motion for Voluntary Surrender. The United States did not require or ask that the defendant surrender. Rather, in his motion, the defendant acknowledged that he is facing a custodial sentence (the Plea Agreement sets forth a Stipulated Guidelines Range of 168 to 210 months) and stated that he wished to voluntarily surrender so that he may begin serving his sentence. The Court granted the defendant's motion and, on January 14, 2011, the defendant was taken into custody by the United States Marshal.

4. On August 29, 2011, the defendant filed a Motion for Release asking the Court to allow him to be reinstated on his previously entered bond and to be released from custody immediately. The Government has no reason to believe that the defendant has committed any further criminal conduct, has violated any conditions set by the Court, has breached any provisions of the Plea Agreement, or has engaged in any activities that warrant revocation of the previously entered bond. However, the defendant himself initiated his surrender prior to sentencing, and the in and out-processing associated with such requests places a burden on the Court, the United States Marshal, and the Bureau of Prisons, and should not be undertaken without sufficient justification.

5. The defendant's motion provides no justification for such a request. The defendant cites unspecified "personal issues" as a basis for release, and the United States has conferred with counsel for the defendant and understands that these issues refer to the financial and emotional hardships suffered as a result of a criminal conviction and incarceration. While these consequences are undoubtedly real, they do not make the defendant's situation unique. Rather, they are common to nearly all criminal defendants and thus should not serve as a basis to grant the defendant's motion for release. While any suffering caused by the defendant's family is deeply regrettable, it is important to note that it was caused by the defendant's own wrongdoing.

For the foregoing reasons, the United States respectfully requests that the Court deny the defendant's motion to release and grant the United States' motion to continue sentencing in this matter.

Respectfully submitted this 30th day of August, 2011.

JACK SMITH
Chief, Public Integrity Section

/s/ Justin V. Shur
JUSTIN V. SHUR
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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

Respectfully submitted,

JACK SMITH
Chief, Public Integrity Section

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