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Reply to Newark Office [X]

ASSOCIATES

Kenneth E. Brown, Esq.
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January 27, 2020

SENT VIA ECF

Honorable Analisa Torres
U.S. Southern District of NY
500 Pearl Street
New York, NY 10007

**Re: State of NY v Michael Thomas, et al.
Docket No.: 1:19-cr-00830
Adjournment Request**

Dear Hon. Judge Torres:

Pursuant to the Court's request, I am making a written request that the April 20, 2020 trial date be adjourned for at least 6 months. Firstly, the government in this matter sent out discovery on or about December 31, 2019. It was received in my office over the holiday break when no one was working. Thereafter, there was an issue with me being able to access the drive containing all of the information proffered by the government because we were given the wrong password by the government. Accordingly, I have had only about two weeks to review the voluminous discovery provided.

The discovery ostensibly contains approximately 25,000 documents and hundreds of hours of video footage. In order to effectively represent my client, I will need at least an additional 60 days to review the discovery and discuss it with my client. Thereafter, I will still need to conduct an investigation based on the information and witness statements detailed in the discovery. Such an undertaking will take at the minimum another 60 days. As the Court can see, it will take me 90 days or more before I am in a position to know what additional discovery may be needed or what motions are appropriate. Additionally, this timeline doesn't even account for issues regarding subpoenas, requests for additional discovery and attempting to locate witnesses or hire experts.



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As previously noted, I intend on filing a motion for dismissal based on selective prosecution. If successful, this motion will entitle my client to additional discovery beyond what has previously been provided which also pushes the trial timeline beyond April of 2020.

My client's position is also that we are entitled to any and all reports, memorandums, witness statements and investigative reports written, produced or possessed by the inspector general regarding this incident and the Federal Bureau of Prison's policy regarding written statements and employee conduct.

It should be noted, that it took the justice department, the FBI, the inspector general's office and an assortment of other federal agencies more than 90 days to investigate this matter. Accordingly, it is more than reasonable that it would take the defendant and his counsel, who have less than one percent of the man power and resources of the government, a significantly longer time to accomplish an adequate investigation and review of all the necessary information provided in this case.

Respectfully yours,

/s/ Montell Figgins

Montell Figgins, Esq.

Attorney for Defendant Michael Thomas

cc: Nicolas Roos, Esq., *Counsel for Plaintiff*
Rebekah Donaleski, Esq., *Counsel for Plaintiff*
Jessica Lonergan, Esq., *Counsel for Plaintiff*
Jason Erroy Foy, Esq., *Counsel for Defendant Noel*