

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

Case No. 21-CR-175-2 (TJK)

JOSEPH RANDALL BIGGS, et al.,

Defendants.

MOTION TO CONTINUE TRIAL

Pursuant to LCrR 57.2(b), defendant Biggs respectfully requests the Court to continue trial of this matter from August 8, 2022 until December 12, 2022, or until the earliest date after December 12, as the Court may see fit, and is convenient for the parties. Biggs and his counsel ask for a continuance at this juncture and time, and ask for a new trial start date of December 12—i.e., a delay of four months—because a continuance is in the best interest of the defendant and of the client in several respects. A continuance would advance the objective of having a fair trial of this case (No. 21-CR-175) in the District of Columbia or in any of the other ninety-three American federal judicial districts in which the case might be heard and decided. Defendant Dominic Pezzola (“Pezzola”) also joins in this motion.

In support of this motion, Biggs respectfully notes:

Trial in this case is slated for August 8, 2022. That is less than two months away. It is estimated that trial will last from four to six weeks. Hearings of the House of Representatives’ Select Committee on January 6 opened on June 9—or just last week. Approximately 20 million Americans, which includes prospective jurors in this judicial district, watched and heard that Thursday evening prime-time production. Biggs was prominently and repeatedly mentioned by

name by one witness. That witness was of course not subject to cross-examination. Strong and strident mentions of Proud Boy “Joseph Biggs” by her and other Congressional players were featured in the hearings on the night of June 9 alone. A video of Pezzola with his name under it, coupled with his being alluded to as a co-conspirator of Biggs in a new seditious conspiracy indictment released just two days before, was also highlighted. This is not to mention hefty overtures about the alleged role of Proud Boys as a group on January 6 showcased by a second witness. The words, soundbites and images of June 9 will influence some jurors who reside here in the District of Columbia. Moreover, the House Select Committee hearings will continue through June, will influence midterm elections (as partly intended), and in any event are likely to stay in the public mind. Biggs seeks to start trial after the midterms are over and some “dust has settled” with respect to public opinion. *See also*, and with respect to continuance of trials in circumstances of ongoing, concurrent, or contemporaneous Congressional hearings, *Delaney v. United States*, 199 F.2d 107, 114 (1st Cir. 1952).

Second, and importantly, some 2,000 House Select Committee deposition and interview transcripts—most are testimonies and records of January 6 witnesses who are not currently under indictment--will **not** be available for release until after the 6-week trial in this case begins on August 8. Those transcripts are important for Biggs and Pezzola to have and review before trial—not during or after. The transcripts are must-haves for trial preparation.

Finally, with respect to outstanding requests of Biggs and other defendants in 21-CR-175 for change of trial venue to a district other than the District of Columbia, in view of the House Select Committee hearings, Biggs would seek new polling data over the next weeks and months

on bias in the District of Columbia's jury pool. This new data would update the four bias studies already completed by other January 6 defendants and now serve as a baseline measurement of significant jury pool prejudice in this District against January 6 protesters that existed well in advance of the much-watched Congressional hearings commencing seven days ago.

Accordingly, and for good cause shown, defendant Joseph Biggs requests that this Motion to Continue Trial until December 12, 2022, or until a next available convenient time soon thereafter, be granted.

Respectfully submitted,

COUNSEL FOR JOSEPH RANDALL BIGGS

Dated: June 16, 2022

By: /s/ J. Daniel Hull
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CERTIFICATE OF SERVICE

The undersigned certifies that on June 16, 2022, defendant Biggs' Motion to Continue Trial was filed and served via the Electronic Case Filing (ECF) system upon the Government and all counsel of record.

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