

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : No. 22-cr-15-APM
 :
 THOMAS CALDWELL, :
 :
 Defendant. :

GOVERNMENT’S CONSENT MOTION TO CONTINUE SENTENCING

The United States of America respectfully requests that the Court continue Defendant Thomas Caldwell’s sentencing hearing, which is currently scheduled for July 26, 2024, for a period of 30-60 days, in light of the decision issued by the Supreme Court last week in *United States v. Fischer*, No. 23-5572 (June 28, 2024).

In *Fischer*, the Court held that Section 1512(c) does not cover “all means of obstructing, influencing, or impeding any official proceeding.” However, the Court did not reject the application of 1512(c)(2) to January 6. Rather, the Court explained that the government must establish that the defendant impaired the availability or integrity for use in an official proceeding of records, documents, objects, or other things used in the proceeding – such as witness testimony or intangible information – or attempted to do so. The United States seeks this continuance to evaluate the impact of the Court’s decision in *Fischer* on the defendant’s case.

“It is firmly established that the granting or refusal of a continuance is a matter within the discretion of the judge who hears the application, and is not subject to review absent a clear abuse.” *United States v. Burton*, 584 F.2d 485, 489 (D.C. Cir. 1978). A court’s review of a motion to continue “necessarily depends on all the surrounding facts and circumstances,” including: (1) the length of the requested delay; (2) whether other continuances have been requested and granted; (3) the balanced convenience or inconvenience to the litigants, witnesses, counsel, and the court; (4)

