

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.: 16-CR-20549-SCOLA/OTAZO-REYES

UNITED STATES OF AMERICA

Plaintiff,

v.

PHILIP ESFORMES, et al.,

Defendants.

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**JOINT MOTION REGARDING THE
MAY 5, 2023 STATUS CONFERENCE**

1. On November 21, 2019, the Court issued an order setting Counts 1, 14, 15, 22, 23, and 33 of the Third Superseding Indictment for retrial during the two-week period commencing on January 21, 2020. (ECF No. 1458).

2. Without waiving his prior objections to a retrial on the hung counts, Mr. Esformes moved to continue the January 21, 2020 retrial date until after the appeal of his convictions. (ECF No. 1468). The Court granted the motion, held that Mr. Esformes' trial date would be continued until after the appeal of his convictions is decided, and scheduled a status conference for July 17, 2020 to determine a retrial date. (ECF No. 1470).

3. The Court has since granted subsequent motions requested by the parties to continue the status conferences related to the retrial date (ECF Nos. 1513, 1529, 1561, 1633, 1665, 1685). When granting such continuances, the Court has excluded time pursuant to the Speedy Trial Act through the next status conference and until after the appeal of Mr. Esformes' convictions based upon a finding that interests of justice served by a continuance outweigh any interest of the public

or the Defendant in a speedy trial. A telephonic status conference to set a retrial date is presently scheduled for May 5, 2023.

4. On January 6, 2021, the Court of Appeals for the Eleventh Circuit issued a decision on Mr. Esformes' appeal affirming the district court. Mr. Esformes intends to seek a rehearing and en banc review of the decision. The appeal accordingly will not be final until the proceedings on rehearing are concluded.

5. The parties therefore respectfully request that the Court keep the May 5, 2023 telephonic status conference date as presently scheduled. Should the appellate proceedings conclude prior to May 5, 2023, the parties will jointly inform the Court and may seek an earlier status conference if appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 12, 2023, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system. I also certify that a true and correct copy of the foregoing document will be served on all counsel of record via transmission of Notice of Electronic Filing generated by the CM/ECF system.

/s/ Mark E. Bini

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