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October 18, 2022

Hon. Jesse M. Furman
Judge, United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *United States v. Joshua A. Schulte*, 17 Cr. 548 (JMF)

Dear Judge Furman,

I write because the parties are at an impasse on how to hold a meet and confer regarding the government's proposed joint briefing schedule for Mr. Schulte's *pro se* Rule 29 and 33 motions.

In the past, the government has fulfilled its meet and confer obligations by calling Mr. Schulte in the SCIF, where one or more of his standby counsel could be physically present and beside Mr. Schulte as he spoke with opposing counsel. During the time Mr. Schulte was entirely *pro se*, the government refused to have calls with him while he was at MDC-Brooklyn, insisting the calls take place while he was at the SCIF. Each call was recorded by the government and an FBI agent was present for the call.

In repudiation of this prior practice, the government now seeks to meet and confer with Mr. Schulte by arranging a telephone call with him at the MDC, meaning no defense counsel would be *physically* present next to Mr. Schulte during the call.¹ Given (i) the hybrid representation in place; (ii) Mr. Schulte [REDACTED];² and (iii) such a setup is not necessary, it would not be prudent for defense counsel to agree to such a meet and confer.

In lieu of the government's proposal, defense counsel has offered to (i) take the government's proposed briefing schedule to Mr. Schulte to get his sign-off;³ (ii) allow the meet and confer at the MDC, provided the government can arrange for Mr. Schulte's counsel to be there physically with him in the same room; (iii) have Mr. Schulte produced at the 500 Pearl Street pens on the 4th floor for the meet and confer; or (iv) if the Court allows the meet and confer to take place outside the physical presence of counsel as the government demands, that the government agree not to use

¹ Defense counsel has apprised the government of her unavailability on the government's chosen date and time of October 19, 2022, and asked at the very least, the call be re-scheduled should the Court not grant the requested relief.

² Neither the government nor the BOP informed counsel for Mr. Schulte [REDACTED]. The BOP did not provide (for three days in row) the requested emergency legal calls. In person visits were also made unavailable. Counsel was told that the in-person visit could not take place as the room in the SAMs unit was occupied by other counsel, when in fact Mr. Schulte was not on his regular unit.

³ I twice offered to go to the MDC and vet with Mr. Schulte the government's proposed briefing schedule for the Rule 29 and 33 motion. The government declined to provide its proposed timeline/schedule to me.

Hon. Jess M. Furman
United States District Judge

Page 2
October 18, 2022

any purported spontaneous statements or questions that may come out during the call against Mr. Schulte at any future legal proceeding. The government has rejected each of these four proposals.

Given this impasse, and the importance of defense counsel being physically next to Mr. Schulte when the Government speaks with him, we respectfully ask the Court to Order the government to adopt one of the four proposals, so the meet and confer can proceed in a manner that allows defense counsel to step in and ensure that Mr. Schulte's right against self-incrimination and right to counsel are protected.

We thank the Court for its time and consideration of this matter.

Respectfully submitted,

/s/Sabrina P. Shroff
Counsel to Joshua A. Schulte

cc: Joshua Schulte, MDC