

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 98-721-CR-LENARD(s)(s)

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUBEN CAMPA,

Defendant.

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DEFENDANT’S MOTION TO CONTINUE RE-SENTENCING HEARING

Defendant RUBEN CAMPA, through undersigned counsel and pursuant to Local Rule 7.6, requests a continuance of his re-sentencing hearing, which is currently set for October 13, 2009. Mr. Campa requests that the hearing be re-scheduled for at least ten days after Mr. Campa and his co-defendants receive the “damage assessment” reports United States Magistrate Judge Garber ordered the government to produce (if this Court denies the government’s appeal from the Magistrate’s Order), or ten days after this Court rules on the government’s appeal (if it overturns the Magistrate’s ruling).

Mr. Campa’s motion is based on the following grounds:

1. Mr. Campa, who is currently serving a sentence of 228 months in prison, is scheduled to be re-sentenced on October 13, 2009.
2. Although undersigned counsel has been diligently preparing for the re-sentencing hearing, counsel requires additional time in which to be fully prepared for the hearing. In particular, Mr. Campa is still waiting to receive the Bureau of Prisons records he

has requested reflecting his outstanding disciplinary record and participation in various prison programs and activities. On September 30, 2009, Magistrate Judge Garber granted Mr. Campa's motion to compel the Bureau of Prisons to release his "progress reports". The next day, on October 1, 2009, a copy of Magistrate Garber's Order was faxed to the institution which had declined to provide Mr. Campa with copies of the reports. Undersigned counsel has been told that the institution is working on the request.

3. Undersigned counsel is still also waiting to receive documents from Mr. Campa's relatives in Cuba. Most of Mr. Campa's family members will be unable to attend his re-sentencing hearing, but have informed undersigned counsel that they wish to send letters of support to the Court. Undersigned counsel is still missing a few letters.

4. Undersigned counsel is still also waiting to receive an outline from Mr. Campa's relatives or the authorities in Cuba reflecting the difficulties Mr. Campa's family members have encountered in visiting Mr. Campa over the years he has been in prison. Due entirely to decisions made by the United States authorities, Mr. Campa's family members have only been able to visit him a few times in more than eleven years he has been in custody. This additional and unexpected hardship Mr. Campa has had to endure while in prison is a factor the Court may wish to take into account at his re-sentencing hearing.

5. Finally, on October 2, 2009, this Court stayed Magistrate Garber's Order requiring the government to produce "damage assessment" reports, and directed the defendants to file their replies to the government's appeal by October 16, 2009; i.e., three days after the scheduled re-sentencing hearing. In the event the Court ultimately decides to require the government to provide the defendants with the "assessment reports", Mr. Campa would like the Court to have the benefit of the reports at the time he is re-sentenced.

Therefore, Mr. Campa requests a continuance of his re-sentencing hearing for at least as long as it is necessary for the Court to rule on the government's appeal.

6. The Assistant United States Attorney assigned to this matter has informed undersigned counsel that the government will, if necessary, file a response to this request once it reviews the written motion.

WHEREFORE, Mr. Campa requests a continuance of his re-sentencing hearing, which is currently set for October 13, 2009, until at least ten days after Mr. Campa and his co-defendants receive the "damage assessment" reports United States Magistrate Judge Garber ordered the government to produce (if this Court denies the government's appeal from the Magistrate's Order), or ten days after this Court rules on the government's appeal (if it overturns the Magistrate's ruling).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th of October, 2009, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

s/ Joaquin Mendez
Joaquin Mendez, Esq.

