

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

**PAULO JORGE DA COSTA
CASQUEIRO MURTA**

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§

CRIMINAL NO. 4:17-CR-000514

**UNITED STATES MOTION TO STAY ORDER
DISMISSING CHARGES AGAINST DEFENDANT**

On May 18, 2023, the Court granted the government’s motion to stay execution of its Order dismissing the charges against Paulo Jorge Da Costa Casqueiro Murta (“Murta” or the “Defendant”) in the Superseding Indictment (DE 470) until 7 days after the issuance of a memorandum and order on the motions to dismiss. (DE 472). That stay is set to expire today. The government respectfully requests that this Court stay execution of its dismissal order pending resolution of the United States’ anticipated appeal of that dismissal to the Fifth Circuit. Alternatively, the United States respectfully requests that this Court stay execution of the dismissal order for an additional 14 days in order to allow it adequate time to request a longer stay from the Fifth Circuit on an emergency basis.

“Given the drastic consequences if [a] Court erred in granting” dismissal of an indictment, it is appropriate to stay a dismissal order “in order to give the Government an opportunity to consider its options” regarding potential appeal.¹ *United States v. Schlor*, No. CR-01-360-RHW,

¹ As with all appeals by the United States in criminal matters, the United States Solicitor General has the authority to “[d]etermin[e] whether, and to what extent, appeal[] will be taken by the Government.” 28 C.F.R. § 0.20(b). Consistent with that authority, the Fraud Section and the United States Attorney’s Office for the Southern District of Texas have obtained authorization for appellate review of the dismissal order. Accordingly, the government has filed a notice of appeal. *See* DE 483.

2008 WL 4949037, at *6 (C.D. Cal. Nov. 14, 2008) (stay of dismissal of indictment on speedy trial grounds). Indeed, district courts dismissing indictments over the government’s objection frequently enter such stays to allow for appellate review. For example, after ordering dismissal of an indictment on selective prosecution grounds, the United States District Court for the Eastern District of Virginia stayed its order “pending the United States’ appeal to the United States Court of Appeals for the Fourth Circuit.” *United States v. Olvis*, 913 F. Supp. 451, 457 (E.D. Va. 1995). Similarly, after dismissing an indictment on statute of limitations grounds, the United States District Court for the Western District of Tennessee stayed dismissal for approximately 60 days. *United States v. Titterington*, No. CR. 2-20165, 2003 WL 23924932, at *2 (W.D. Tenn. May 22, 2003). Likewise, the United States District Court for the Southern District of New York stayed its dismissal order for approximately 18 days “[i]n order to give the Court of Appeals a reasonable opportunity to schedule the [anticipated] appeal” by the United States. *United States v. Johnson*, No. 98 CR. 880 (WK), 1998 WL 841491, at *2 (S.D.N.Y. Dec. 3, 1998), *rev'd on other grounds*, 171 F.3d 139 (2d Cir. 1999); *but see United States v. Figueroa-Taveras*, No. 02 CR. 333 (RPP), 2002 WL 31749390, at *2 (S.D.N.Y. Dec. 6, 2002) (pending appeal deprived district court of jurisdiction to stay dismissal of indictment).

Here, as in the cases above, the “drastic consequences” if this Court erred in ordering dismissal of the charges against Murta militate in favor of a stay. Murta is charged for his role in a sprawling foreign bribery and money laundering scheme. Society has a significant interest in those charges being adjudicated. If this Court erred in dismissing the indictment and no stay is granted, those societal interests will be thwarted. Murta was extradited to the United States by Portugal after a lengthy process of appeals to multiple European courts—a process that took over two years. He has no legal status in the United States. If the dismissal order is not stayed, he is

likely to leave of his own volition or be deported to Switzerland or Portugal in the near future. In the event that Murta returns to Switzerland, it is unlikely that the Swiss authorities would extradite him to the United States.² If Murta returns to Switzerland, and the Fifth Circuit ultimately rules that this Court erred in dismissing the charges against Murta, the societal interest in his prosecution will be frustrated.

This Court should stay execution of its dismissal order pending any appeal by the United States to the Fifth Circuit or, alternatively, stay execution of the order for 14 days to allow adequate time for the United States to seek a longer stay from the Court of Appeals.

Respectfully submitted,

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² Although Murta signed a "Waiver of Extradition" (DE 291), the United States understands that such a waiver is unlikely to be enforced by Swiss authorities.

CERTIFICATE OF CONFERENCE

I hereby certify that on June 13, 2023, the government conferred with counsel for the Defendant, who is opposed to the government's motion.

/s/ Sonali D. Patel
Sonali D. Patel
Assistant Chief
Fraud Section, Criminal Division
U.S. Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that, on June 13, 2023, I filed the foregoing motion with the Clerk of the Court using the ECF/CM system for filing and service on all counsel of record.

/s/ Sonali D. Patel
Sonali D. Patel
Assistant Chief
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