

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Criminal Division – Felony Branch

UNITED STATES OF AMERICA

v.

EDGAR WELCH

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: Case No. 2016 CF3 19909  
: Hon. Judge Sherry Trafford  
: Preliminary Hearing: December 8, 2016  
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MOTION TO CONTINUE PRELIMINARY HEARING

Mr. Edgar Welch, through undersigned counsel, pursuant to the Sixth Amendment to the Constitution of the United States and D.C. Code § 23- 1322 (d)(1), respectfully moves this Court to continue the preliminary hearing currently scheduled in the above-captioned case. In support of this motion, counsel states:

1. Edgar Welch is currently charged by complaint with one count of Assault with a Dangerous Weapon and one count of Carrying a Pistol Without a License. A preliminary hearing is scheduled for December 8, 2016.
2. According to police reports, on December 4, 2016, Mr. Welch walked into Comet restaurant armed with an AR-15 rifle. At the time Mr. Welch went into the restaurant, there were multiple customers inside. Police officers observed at least three customers coming out of the main entrance of the restaurant shouting that a man was inside with a gun (CW-2, CW-3, CW-4). According to CW-1, an employee at the restaurant, he was outside retrieving pizza dough from a freezer in the alley when he heard three loud bangs coming from inside the location. CW-1 further alleges that when he attempted to re-enter the restaurant, a man with a rifle swung the rifle in the direction of CW-1. CW-2 and CW-3 identified Mr. Welch as the man they observed inside of the restaurant, armed with

a gun.

3. Mr. Welch was presented in C-10 on December 5, 2016 and, after a finding of probable cause, detained pursuant to § 23-1322(b)(1)(a).
4. At the time Mr. Welch was presented, undersigned counsel requested a preliminary hearing date of Friday, December 9, 2016. Assigned Assistant United States Attorney (AUSA) Sonali Patel represented that she would not be available on Friday. The hearing was set for December 8, 2016.
5. Defense counsel now requests additional time to investigate these allegations in order to adequately prepare for the preliminary hearing scheduled for December 8, 2016. Counsel believes that such investigation is necessary to provide Mr. Welch with the representation guaranteed under the Sixth Amendment.<sup>1</sup> In addition, Mr. Welch has several family members and friends who would like to be present for the hearing; counsel requests additional time to allow them to make the appropriate travel arrangements.
6. D.C. Code § 23- 1322 (d)(1) states that the preliminary hearing [for a detained individual] “shall be held immediately upon the person’s first appearance before the judicial officer unless that person, or the attorney for the government, seeks a continuance.” Furthermore, “a continuance on motion of the person shall not exceed five days,” and a request that exceeds five days from the date of presentment needs to be supported by good cause. Id. Given that the fifth day after presentment would fall on a Saturday, the statute would support a continuance request by Mr. Welch until Monday, December 12, 2016. Such a request would not need to be supported by good cause. Due to counsel’s

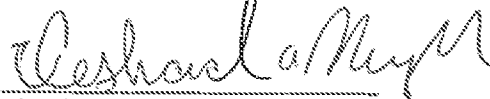
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<sup>1</sup> Should the Court request more information related to defense investigation, undersigned counsel is prepared to make an Ex Parte proffer at a hearing on this motion.

- schedule, she is requesting that a hearing date be set for Tuesday, December 13, 2016.<sup>2</sup>
7. Counsel contacted AUSA Patel regarding the government's position on this request. Ms. Patel indicated that the government would oppose this request because the government was prepared to move forward with the hearing on Thursday, and would like to "move this case along." Based on counsel's experience, the government does not generally oppose continuance requests within the five day time frame allotted by statute. Furthermore, the government has not articulated any substantive basis for such opposition nor identified any prejudice that would result from the proposed four-day continuance.
  8. Given that Mr. Welch will remain detained until the next date, this request does not prejudice the government in any way.

WHEREFORE, for the reasons set forth above and for any others that may appear to the Court, Mr. Welch requests that this Motion be granted.

Respectfully submitted,



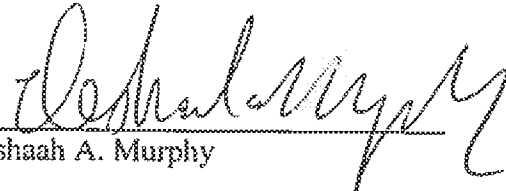
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<sup>2</sup> However, counsel submits that she would be able to provide good cause for a continuance until Tuesday, December 13, 2016 if requested by the Court.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion has been served by electronic mail upon Ms. Sonali Patel, Esq., attorney of record for the United States Attorney's Office, this 7<sup>th</sup> day of December 2016.

  
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Ieshaah A. Murphy