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May 5, 2021

By ECF

Honorable Madeline Cox Arleo
United States District Judge
Martin Luther King Jr.
Federal Building & United States Courthouse
50 Walnut Street P.O. Box 999
Newark, New Jersey 07101-0999

Re: Bergrin v. United States, Civ. Action No. 16-3040

Dear Judge Arleo:

Please accept this letter in lieu of a more formal request for an extension of time within which to file Petitioner's brief in support of motion (or amended motion) to vacate sentence. In this Court's February 9, 2021 Order (ECF No. 71), Your Honor appointed the undersigned counsel to represent Petitioner in this matter pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, and directed us to file a brief in support of Petitioner's motion to vacate sentence (or, to the extent counsel deems it necessary, an amended motion to vacate sentence) within 90 days of the Order. Thus, such a brief or motion is currently due Monday, May 10.

As the Court noted in its Order, this case involves voluminous briefing and the issues presented in this case are complex. Order ¶ 4. Indeed, preparing Petitioner's submission is an enormous undertaking, including reviewing and incorporating thousands of pages of transcripts, *pro se* pleadings (themselves some 830 pages), and other discovery materials, and while counsel is certainly familiar with Petitioner's criminal case, including as a result of our appointment as standby counsel for Petitioner at trial and as counsel on appeal and for the motion seeking a new trial based upon newly discovered evidence (and the pending appeal in that matter), the review of the unique pleadings and issues presented by this civil action still require a great deal of time.

Further, the process of this review has been hampered by Mr. Bergrin's incarceration at the USP Florence ADMAX, the Federal Bureau of Prisons' highest security facility, where Mr. Bergrin is subject to Special Administrative Measures which limit our access to him; he does not, for example, have access to email, and, although the staff at the ADMAX is extremely helpful, due to the constraints under which they operate, it is not always easy to set up legal calls with Mr. Bergrin, and in any event those calls are limited to an hour. Moreover, mail—disturbingly, even legal mail—is subject to review, and to the delays inherent in that review.

Finally, this season has been busy, and promises to continue to be; the press of other matters, both before this and other courts, has made it impossible to complete the work necessary for us to

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provide the effective assistance of counsel to which Mr. Bergrin is entitled on this submission, and which will allow us to provide submissions that will be most helpful to the Court.

We believe, and subject to conflicts created by other matters, that an extension of 45 days will enable us to draft, finalize and file Mr. Bergrin's submission. Accordingly, appointed counsel for Mr. Bergrin proposes that his submission be due on or before Thursday, June 24, 2021. I have been in touch with Assistant U.S. Attorney Steven G. Sanders, who, on behalf of the Government, has graciously consented to this request. If this revised schedule is satisfactory to the Court, please so order it (we have provided a space below for the Court to do so). Of course, if Your Honor has any questions or concerns with regard to this matter, please do not hesitate to contact me. Thank you very much for your kind consideration of this request.

Respectfully Submitted,



Lawrence S. Lustberg

cc: Steven G. Sanders, Esq. (by ECF and email)

So ordered this 10th day of May, 2021



Hon. Madeline Cox Arleo, U.S.D.J.