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July 24, 2013

**FILED VIA ECF**

Honorable Dennis M. Cavanaugh  
United States District Judge  
U.S. Post Office & Courthouse Building, Room 451  
P.O. Box 999  
Newark, New Jersey 07101-0999

**Re: United States v. Paul W. Bergrin,**  
**Docket No. 09-369**

Dear Judge Cavanaugh:

As Your Honor is aware, the current sentencing date for Mr. Bergrin in the above-captioned matter is August 12, 2013. This date was set, in part, to comply with Standing Order 00-1, and in part as a result of the Court's gracious accommodation of standby counsel's travel schedule. Unfortunately, two circumstances have arisen, as a result of which Mr. Bergrin has asked us, on his behalf, to request that the sentencing date be postponed for an additional two weeks.

First, on July 22, 2013, the government submitted a 13-page rebuttal to Mr. Bergrin's objections to the draft Presentence Report (PSR) in this matter. While Standing Order 00-1 and Federal Rule of Criminal Procedure 32(f)(1) provide an opportunity for the government to file its own objections to the PSR within the same time period as the defendant, that process does not authorize the government to respond to *Mr. Bergrin's* objections — objections, which it is Mr. Bergrin's right to make and which he really must lodge in order to preserve his position for appeal. *See United States v. Ciavarella*, 716 F.3d 705, 2013 U.S. App. LEXIS 10513 at \*23 n.6 (3d Cir. 2013) ("Because Ciavarella did not object to the presentence report when given the opportunity to do so, his contention that it contained factually disputed evidence is not properly before us."); *United States v. Watkins*, 54 F.3d 163, 166-67 (3d Cir. 1995) ("a sentencing court may rely on the facts set forth in the presentence report when their accuracy is not challenged by the defendant"). Indeed, Mr. Bergrin really must respond to the government's submission, in order to realize his constitutional right to mount an effective defense. *Cf. Amponsah v. United States*, No. 08-114, 2009 U.S. Dist. LEXIS 27932 at \*17 (D. N.J. 2009) (addressing ineffective assistance of counsel challenges based upon counsel's failure to object to the manner and substance of the government's PSR objections). And, as a *pro se* litigant, Mr. Bergrin requires some additional time to do so; indeed, because he is incarcerated, and notwithstanding our mailing the government's submission (which was too long to be emailed) to him as soon as we received it this past Friday, it ordinarily takes several days for mail to reach him and, as of this writing, we have not had confirmation that he has in fact received it.

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There is, however, a second reason why Mr. Bergrin wishes his sentencing to be briefly adjourned. Mr. Bergrin's teenage daughter Diana, who strongly desires to attend her father's sentencing, will be away at camp on August 12, and would not be able to attend Court on that date. Since Mr. Bergrin understandably wishes to have the support of his family on that critical day, when he faces sentencing to life imprisonment without parole, he respectfully requests, as a matter of compassion and fairness, that the Court postpone the sentencing, very briefly, until August 26, 2013, for that reason as well.

Of course, if the Court has any questions or concerns, please do not hesitate to contact me. Thank you very much for your kind consideration of this request.

Respectfully submitted,

s/ Lawrence S. Lustberg

Lawrence S. Lustberg  
Standby Counsel for Defendant Paul W. Bergrin

cc: Steven G. Sanders, Assistant U.S. Attorney (via email)  
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Paul W. Bergrin