

United States District Court
District of Massachusetts

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United States of America,)	
)	
v.)	Criminal Action No.
)	19-10080-NMG
Gregory Colburn, et al.,)	
)	
Defendants.)	
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Notice

Before ruling on the Assented-to Motion to Continue February 2021 Trial (Docket No. 1634), the Court poses a few questions and comments to counsel for response on or before Friday, December 4, 2020.

- Why cannot discovery and trial preparation be adequately accomplished via video conference? In this electronic age certainly counsel have access to means of conducting full-blown interviews with documents provided electronically that would be as effective as in-person interviews (and without the incurrance of travel expenses). This would avoid most of the problems mentioned in defendants' motion except for the trial itself and the necessary pretrial quarantining. Those problems, in turn, can be timely considered within a much shorter time before the scheduled trial.
- How many people associated with this case are 65 years old or older? The answer seems to be: the judge and perhaps a few attorneys. The judge is prepared to conduct a jury trial in this case with appropriate precautions in place. The attorneys should be prepared to do likewise (or to consider withdrawing their appearances).

- Regardless of the availability (or unavailability) of courtrooms in which to try this case at the Moakley Courthouse, and regardless of whether this trial of four defendants is severed to better accommodate the current courtroom restrictions, counsel should understand that each party will be limited to two attorneys in the courtroom. Paralegals and any other support staff will be in a satellite space with closed circuit video service. Similar remote access to the trial will be available to members of the public.
- Jury selection will be conducted pursuant to the same protocol successfully followed in the several criminal jury trials already conducted by this United States District Court post-COVID-19 and, high profile or not, it will be completed in this case in an orderly fashion with ample use of online and mail-in questionnaires to avoid any unnecessary summoning of excusable venire persons.

Finally, the Court notes that the only statement by counsel with respect to the COVID-19 pandemic without supporting citation in their motion is that, by September, 2021, COVID-19 "will be abated". There is no certainty of that but there is a necessity to conduct a jury trial in this case as soon as it is reasonably practicable which this Session of this Court intends to do.



Nathaniel M. Gorton
United States District Judge

Dated: November 25, 2020