

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

**UNITED STATES OF AMERICA, )**

)

**Plaintiff, )**

)

**v. )**

**Case No. 09-00121-03-CR-W-DGK**

)

**BRUCE ALLEN BISH, )**

)

**Defendant. )**

**MOTION FOR LEAVE TO FILE PRETRIAL MOTION OUT OF TIME**

COMES NOW the Defendant, by counsel, and moves the Court for its Order granting him leave to file a pretrial motion after the deadline for pretrial motions has passed. In support thereof, Defendant states that:

1. In the original scheduling order in the case, the Court set July 17, 2009, as the last date for the filing of pretrial motions. That date was based upon the assumption that trial was likely to take place on November 2, 2009.

2. On December 22, 2009, the Court granted defendant Heastan's motion to continue the trial setting in this matter. The current trial date is April 26, 2010. No new pretrial motion filing date was established, and none was requested in the continuance motion or by any other party at the hearing on the motion.

3. Prior to the original pretrial motion filing deadline, counsel for Defendant was actively involved in plea negotiations with the Government and

made a strategic decision to not file any substantive pretrial motions. While undersigned counsel believed that this defendant had sufficient legal and factual grounds for the filing of a certain substantive motion prior to the filing deadline, counsel also believed that plea negotiations would result in a written plea agreement which would render the issues in the motion moot. That result has not yet been achieved. Defendant therefore requests leave to file a motion to dismiss on or before February 1, 2010, designed to protect his substantive rights in the event that no such agreement is ever reached.

4. Defendant has not asked the Assistant United States Attorney assigned to this case what the Government's position is on this motion because counsel believes that the Government is almost certain to oppose both this motion and the motion defendant proposes to file.

WHEREFORE, Defendant moves the Court for its Order permitting Defendant to file the attached motion out of time, but no later than February 1, 2010.

/s/ Phillip R. Gibson  
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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all counsel of record.

//s// Phillip R. Gibson  
*Counsel for Defendant*