

1 *MICHAEL C. ORMSBY*
United States Attorney - EDWA
2 *Timothy Durkin*
Aine Ahmed
3 Assistant United States Attorneys
4 *Victor Boutros*, Trial Attorney
Criminal Civil Rights Division
5 Post Office Box 1494
6 Spokane, WA 99210-1494
Telephone: (509) 353-2767
7

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 UNITED STATES,)
) **NO. 09-CR-0088-FVS**
11 Plaintiff,)
) UNITED STATES' RESPONSE TO
12 vs.) DEFENSE MOTION FOR 30-DAY
13) EXTENSION OF DEADLINE FOR
14 KARL F. THOMPSON, JR.,) POSSIBLE NEW TRIAL MOTION
)
15 Defendant.)

16 The UNITED STATES, through the undersigned DOJ counsel, submits this
17 Response in opposition to the Defense's expedited motion seeking a 30-day extension of
18 time in which to review and investigate the post-conviction statement of Grant Fredericks,
19 and to then determine whether that statement provides an "appropriate basis" for seeking a
20 new trial under *Brady v. Maryland*.

21 As the Court is aware, Mr. Fredericks has expressed a concern with the accuracy of
22 a selected portion of the United States' September 22, 2009, Rule 16, attorney prepared
23 summary of what the United States anticipated Mr. Fredericks's may testify to if called as
24 a witness at trial. Mr. Fredericks is not, however, privy to the hundreds of pages of
25 discovery provided to the Defense that concerns his involvement in the underlying
26 investigations; his various analysis of the security video; his underlying reports; additional
27

1 statements by him and others reflected in FBI 302 reports, other investigative records
2 and/or other case related records; other experts' reports and disclosures; or sworn grand
3 jury testimony touching upon the security video and its interpretation; etc.; all of which
4 supplemented, were consistent with and/or clarified anticipated testimony.

5 In contrast, the Defense has all of these materials in its possession, most of which
6 the Defense has possessed for a significant period of time (i.e., beginning in the summer
7 and fall of 2009 – *see e.g., United States' Notices of Discovery Disclosures, inter alia,*
8 *ECFs #42, 65, 82, 147, 578; cf., 634, 636-38*). Further, the Defense is also aware of the
9 witnesses' testimony, both prosecution and defense, that was admitted at trial. Therefore,
10 requesting an additional 30 days to review Mr. Fredericks's statement in the context of
11 these previous discovery disclosures, and the Prosecution's and Defendant's own
12 expert(s)/witnesses' reports and testimony, is excessive and unnecessary.

13 The United States understandably does not object to a reasonable extension, but
14 thirty days is too long and needlessly places in peril the parties' current Sentencing and
15 New Trial Motion hearing date of January 27, 2012. The Defense recently filed a multi-
16 pronged Motion for New Trial (after securing a number of extensions). Thus, an
17 extension of an additional two weeks (14 days) to review and resolve this issue is
18 reasonable and appropriate. Two weeks also allows sufficient time, if necessary, for the
19 United States to file a timely pre-January 27, 2012, hearing response and provides
20 sufficient time for a Defense optional reply. *See also* Rule 33, which provides a 14 day
21 period for the filing of a motion for new trial.

22 RESPECTFULLY SUBMITTED this 29th day of December 2011.

23 MICHAEL C. ORMSBY
24 United States Attorney (EDWA)

25 *s/ Aine Ahmed*

26 Aine Ahmed
27 Assistant United States Attorney
Attorneys for Plaintiff United States

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Certificate of ECF and/or Mailing

I hereby certify that on the date of the electronic filing of the foregoing pleading with the Clerk of the Court using the CM/ECF System, that the CM/ECF System sent notification to the following CM/ECF participants:

Carl Oreskovich, Esq.
Counsel for Karl Thompson

And to the following non CM/ECF participants: N/A

s/ *Aine Ahmed*
Aine Ahmed, AUSA