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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) No. CR 03-0095 WBS
14 Plaintiff,)
15 v.) **UNITED STATES' RESPONSE**
16 AMR MOHSEN,) **TO RENEWED MOTION TO**
17 Defendant.) **SUBSTITUTE COUNSEL**
18

19 On August 22, 2006, attorney Dennis Riordan requested permission to substitute
20 into this case as retained counsel for Amr Mohsen in place of Mohsen's two court-
21 appointed counsel. CR 599. Mr. Riordan, however, expressly conditioned his
22 willingness to substitute in as counsel for Mohsen on the Court (1) permitting his law
23 firm to file additional unspecified pleadings on the post-trial motions, which motions
24 were already fully briefed by the government and Mohsen's appointed counsel; and, (2) a
25 60 to 90 day continuance of Mohsen's sentencing which was, at that time, scheduled to
26 take place on September 15, 2006. The Court agreed to allow Mr. Riordan to substitute
27 in as Mohsen's counsel, but would not permit any further briefing on the defendant's
28 motion for a new trial. Nor was the Court willing to grant the lengthy continuance of the

1 sentencing that Mr. Riordan had requested. On August 29, 2006, Mr. Riordan wrote a
2 letter to the Court advising that he did not intend to substitute in and moving to withdraw
3 his previous motion to substitute in as Mohsen's retained counsel. CR 603.

4 For reasons unrelated to either the government or Mohsen, on August 30, 2006,
5 Mohsen's sentencing was continued to October 20, 2006. CR 604. On October 5, 2006,
6 the sentencing was again continued to December 8, 2006.¹ CR 612. Despite the fact that
7 Mohsen was clearly aware of the fact that his sentencing had been continued nearly 90
8 days (from the original September 15, 2006 date to December 8, 2006), Mohsen did not
9 make any renewed request to substitute counsel until November 22, 2006, a mere three
10 weeks before his sentencing. Once again, Mr. Riordan's request to substitute in as
11 Mohsen's counsel is conditioned on a continuance of the sentencing date, this time "for at
12 least one week." 11/21/06 Riordan Decl. ¶ 3.

13 The government makes the following observations for the court's consideration.
14 First, Mr. Riordan's declaration does not state the expected length of the trial in *People v.*
15 *Kanda*, which is the conflict identified as the justification for Mr. Riordan's request to
16 continue the December 8, 2006 sentencing date. Nor does Mr. Riordan specify whether
17 he is lead counsel in *Kanda*; whether the *Kanda* trial will likely be concluded before
18 December 15, 2006 (the proposed new sentencing date); whether Mr. Riordan has any
19 other case-related responsibilities which may conflict with the Mohsen sentencing or,
20 whether Mr. Riordan also seeks an extension of time to file the defendant's sentencing
21 memorandum, which is currently due on December 1, 2006.

22 Second, the government is concerned that if Mr. Riordan is permitted to replace
23 appointed counsel, this will merely be the first of numerous requests to continue the
24 sentencing date based on other conflicts in Mr. Riordan's schedule. The government is
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27 ¹The October 20, 2006 sentencing date was continued due to an illness of the Probation
28 Officer originally assigned to prepare the Pre-sentence Report (PSR). Preparation of the PSR
was reassigned by the Probation Office to a new Probation Officer, which resulted in an
unforeseen delay of Mohsen's sentencing date.

1 aware of many high profile matters that Mr. Riordan is involved in, all of which require
2 Mr. Riordan's attention in the short and long term. For example, Mr. Riordan is lead
3 counsel in *Doe v. Schwarzenegger*, C06-06968 JSW, a lawsuit challenging the
4 constitutionality of the recent voter-approved sex offender law. We respectfully request
5 that if the Court is inclined to permit the proposed substitution that the sentencing of co-
6 defendant Aly Mohsen take place on December 8, 2006 as scheduled. We further request
7 that any continuance of Amr Mohsen's sentencing be for no more than one week to
8 December 15, 2006 which we request be conditioned upon an explicit representation from
9 Mr. Riordan that he will be available and prepared to proceed on that date.

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11 Dated: November 28, 2006

Respectfully Submitted,

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