

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAVEL BABICHENKO,
PIOTR BABICHENKO,
TIMOFEY BABICHENKO,
KRISTINA BABICHENKO,
DAVID BIBIKOV,
ANNA IYERUSALIMETS, and
MIKHAIL IYERUSALIMETS,

Defendants.

Case No. 1:18-cr-00258-BLW

**ORDER RE CONSOLIDATED
BRIEFING REQUEST**

INTRODUCTION

Before the Court is the government's Motion for Leave to File a Single Response to Motions in Limine (Dkt. 1323). The government also asks the Court to order expedited briefing on this motion. For the reasons explained below, the Court will deny the motion without further briefing.

DISCUSSION

The retrial of this complex, multi-defendant case is scheduled to begin on May 18, 2022. Several months ago, the Court put a pretrial order in place. That

order required all pretrial motions (including motions in limine) to be filed by March 28, 2022 – meaning that they would ripen three weeks later, on April 18, 2022. *See First Amended Pretrial Order*, Dkt. 1225, at 23.

At the most recent, March 10, 2022 pretrial conference, the Court expressed regret about this schedule. In hindsight, the Court said, it should have given itself more time to consider and rule on the expected avalanche of pretrial motions. The Court thus encouraged counsel to file their motions early, warning that if they filed all their motions on the last possible day – March 28, 2022 – the Court might not be able to issue rulings on all pending motions until after the trial began.

Apparently heeding that message, defendants began filing motions in advance of that March 28, 2022 deadline. As of this writing, defendants have filed six pre-trial motions and objections. *See* Dkts. 1296, 1306, 1316, 1317, 1319, and 1320. Those motions are scheduled to ripen on a rolling basis – on March 28 and April 1, 4, and 5 – meaning that the government’s responses are due on March 21, 25, 28, and 29.

The government says it would prefer to file a single, consolidated response to all pending motions in limine (including a response to pretrial motions that have not yet been filed). The government therefore asks the Court to extend its response deadline for all currently pending motions to April 11, 2022 – meaning that all defense motions will ripen together on April 18, 2022. Although, of course, that

assumes the defendants would not ask for a similar extension to file their reply briefs.

The Court will not adopt this schedule. If there were more of a buffer between the pretrial-motion filing deadline and the first day of trial, the Court might go along. But as noted above, the Court already has concerns about the timing. To put it bluntly, the Court needs *more* time, not *less*, to rule on the pending motions. The government correctly points out that the Court has indicated that most rulings will not be issued until late April or early May. But the Court still needs time to read the motions, research the relevant authorities, and draft decisions. The staggered approach will allow the Court to begin work sooner and issue rulings more promptly. That will benefit the parties and, hopefully, ensure that trial proceeds more smoothly. The Court recognizes that a second intensive, complex trial is extremely burdensome for all counsel but will not take on the role of the giving tree.

To the extent that, as the government suggests, the defendants' motions in limine are made moot through informal discussions or pretrial disclosures, the government can submit short filings indicating as much. This approach gives defendants the opportunity to reply and indicate whether or not they agree with the government's assertion of mootness.

ORDER

IT IS ORDERED that the Government's Motion for Leave to File a Single Response to Motions in Limine (Dkt. 1323) is **DENIED**. The request for expedited briefing is therefore **MOOT**.



DATED: March 18, 2022

A handwritten signature in black ink, reading "B. Lynn Winmill". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

B. Lynn Winmill
U.S. District Court Judge