

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

United States of America,	)	
	)	
v.	)	Case No.: 1:25-CR-00272-MSN
	)	
James B. Comey, Jr.,	)	
	)	
Defendant.	)	
_____	)	

JAMES B. COMEY, JR.'S MOTION FOR EXTENSION OF CIPA DEADLINES

James B. Comey, Jr., by and through undersigned counsel, respectfully requests an adjournment of the due date for submission of its notice pursuant to Section 5 of the Classified Information Procedures Act (“CIPA”), to enable counsel to review the classified discovery. The defense seeks an adjournment until two weeks after Mr. Fitzgerald receives his full clearance. The government consents to this request.

On October 13, 2025, following a meet and confer, the parties submitted a joint proposal for the applicable CIPA deadlines which the Court adopted on October 14, 2025. The schedule was explicitly premised on certain assumptions:

The schedule proposed by the parties assumes that attorney Patrick Fitzgerald receives his security clearance, or interim clearance, within a reasonable time, and that all the classified materials to be reviewed are made available to the defense within a reasonable time.

Dkt. No. 43 at p. 1.

As to defense counsel’s clearances, Mr. Fitzgerald, who is lead counsel and most familiar with the facts and history of the allegations, must be able to conduct the review. He received notice on October 27, 2025 that he had been granted a provisional clearance to the TS/SCI level but is not authorized for specific compartments until he receives a final clearance. Co-counsel Rebekah Donaleski and Jessica Carmichael have full clearances and will be read into the relevant

components the week of November 5, 2025. However, Jennifer Campbell, the assigned Classified Information Security Officer (“CISO”) advised, that based upon the classification level of the materials that were delivered to the defense sensitive compartmented information facility (“SCIF”) on October 29, Mr. Fitzgerald will only have cleared access to one third of the materials currently available in the defense SCIF prior to the time he receives his full clearance. She further advised that the full background review can take up to 45 days, which may mean that Mr. Fitzgerald will not receive a full clearance until as late as December 4, 2025. (The undersigned understand and appreciate that Ms. Campbell and her colleague CISOs have been pushing to expedite the process as much as they can.)

Moreover, the defense is hopeful that more of the materials in the SCIF will be declassified. Having material unnecessarily classified severely limits the defense’s ability to prepare case materials such as notes and outlines, and impedes defense strategy because of the limitations on disclosure with other members of the defense team and Mr. Comey.

Mr. Fitzgerald plans to begin reviewing classified materials he has access to on November 3, 2025 and continuing on November 4, 2025. After that review, the defense will have a better sense of the volume of the material that will remain to be reviewed. Mr. Fitzgerald, Ms. Donaleski, and Ms. Carmichael will resume the review during the following week, but will not be able to review all of the materials with Mr. Fitzgerald until he receives his clearance. Granting an extension for the CIPA Section 5 notice would allow for that additional review.

Finally, as discussed in the motion seeking a bill of particulars, the defense is not aware, and the government has not stated, which allegedly false statement(s) are at issue in Count Two. Without this information, the defense cannot know what classified evidence may be necessary for Mr. Comey’s defense at any trial, and the defense must guess at which statements are at issue. The

defense has made several discovery and *Brady* requests to the government that call for the production of voluminous classified information based on those guesses. Of course, when the government reveals which allegedly false statement(s) are actually at issue, the defense can better tailor its discovery and *Brady* requests, including of classified materials.

For these reasons, the defense respectfully requests an extension of the deadline to file its Section 5 notice to a date two weeks after Mr. Fitzgerald obtains his final clearance, and concomitant adjournments of the remaining CIPA deadlines. Of course, if the defense can file the Section 5 notice ahead of any adjourned deadline, it will do so. The government has indicated it does not intend to file a Section 4 notice.

Dated: October 31, 2025

Respectfully submitted,

JAMES B. COMEY, JR.
By Counsel

/s/ Jessica Carmichael

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CERTIFICATE OF SERVICE

I hereby certify that, on this 31st day of October, 2025, a true copy of the foregoing document was filed electronically through the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Jessica N. Carmichael

Jessica N. Carmichael

Counsel for Defendant James B. Comey, Jr.

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ORDER EXTENDING CIPA DEADLINES

Upon motion of James B. Comey, Jr., without objection from the government, for the reasons stated in the motion, the Motion to Extend the CIPA Deadlines is GRANTED.

Mr. Comey's CIPA Section 5 Notice shall be due two weeks after lead counsel, Patrick Fitzgerald, receives his final and full clearance. The remaining CIPA deadlines shall be concomitantly extended.

IT IS SO ORDERED.

Date

Michael S. Nachmanoff
United States District Judge