

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA  
*Plaintiff,*

v.

JIMMY ANDRES DIAZ-ROSA  
*Defendant.*

CRIMINAL NO. 20-mj-377 (MEL)

**SECOND MOTION TO CONTINUE PRELIMINARY HEARING**

**TO THE HONORABLE JUDGE MARCOS E. LOPEZ  
UNITED STATES MAGISTRATE JUDGE  
FOR THE DISTRICT OF PUERTO RICO**

COMES NOW the defendant, **Jimmy Diaz-Rosa**, hereinafter “**Mr. Diaz**,” represented by the Federal Public Defender for the District of Puerto Rico and before this Honorable Court respectfully states as follows:

1. Mr. Diaz is currently scheduled for a Preliminary Hearing on Thursday, March 19, 2020. Docket No. 4. For the following reasons, he respectfully requests that this hearing be continued for one month.
2. Mr. Diaz was granted bail conditions on March 13, 2020. The same day, he was released from custody at MDC-Guaynabo to his mother, Ms. Carmen Rosa, who was qualified as third party custodian. Since then, Mr. Diaz has been residing at his mother’s apartment, complying with the Court’s bail conditions.
3. As of March 17, 2020, COVID-19 has infected at least 182,100 people worldwide,

leading to over 7, 000 deaths.<sup>1</sup> Within the United States there are 4,482 known infections and at least 86 deaths.<sup>2</sup> As of today there are five known cases in Puerto Rico and 19 suspected cases.<sup>3</sup> On March 11, 2020, the World Health Organization (WHO) officially classified COVID-19 as a pandemic.<sup>4</sup> On March 15, 2020, the Governor of Puerto Rico issued an executive order, requiring the closure of all non-essential businesses, imposing a curfew, and limiting travel from the home for specific necessities.<sup>5</sup>

4. The confirmed and suspected cases of COVID-19 in Puerto Rico, indicate the possibility of community spread. The highly restrictive Executive Order issued by the Governor is aimed at curtailing such a spread.
5. Ms. Rosa is 76 years old. As such, she falls among the population identified as specifically vulnerable to COVID-19 according to the Center for Disease Control (CDC)<sup>6</sup> and the WHO<sup>7</sup>. Consequently, Ms. Rosa and Mr. Diaz are taking the recommended and mandated measures of social distancing and self-quarantine.

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<sup>1</sup> Coronavirus Map: Tracking the Spread of the Outbreak, The New York Times (March 17, 2020) available at: <https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html#world> (updating regularly)

<sup>2</sup> *Id.*

<sup>3</sup> Aumentan a 10 los Casos Sospechosos de COVID-19 en La Isla, El Nuevo Dia, available at: <https://www.elnuevodia.com/noticias/locales/nota/aumentana19loscasos sospechosos de covid-19 en la isla-2553376/>

<sup>4</sup> *WHO Characterizes COVID-19 as a Pandemic*, World Health Organization (March 11, 2020) at <https://bit.ly/2W8dwpS>.

<sup>5</sup> Executive Order ( March 15, 2020) available at: [https://www.scribd.com/document/451785912/Orden-ejecutiva-de-la-gobernadora-para-combatir-el-coronavirus#from\\_embed](https://www.scribd.com/document/451785912/Orden-ejecutiva-de-la-gobernadora-para-combatir-el-coronavirus#from_embed)

<sup>6</sup> See Center for Disease Control, “Corona Virus Disease 2019, if you are at higher risk” available at [https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhigh-risk%2Fhigh-risk-complications.html](https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhigh-risk%2Fhigh-risk-complications.html)

<sup>7</sup> See World Health Organization, “Situation Report 51” available at [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200311-sitrep-51-covid-19.pdf?sfvrsn=1ba62e57\\_8](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200311-sitrep-51-covid-19.pdf?sfvrsn=1ba62e57_8)

6. In light of Chief Judge Gelpi's Miscellaneous Order 20-088 continuing all hearings scheduled before district or magistrate judges due to the outbreak of COVID-19, the defense respectfully requests a continuance of the Preliminary Hearing in this case until the public health emergency has passed or abated. Mr. Diaz seeks to avoid exposing himself, his mother, court staff and employees, the USMS, and the attorneys to unnecessary risk of infection. Postponing Mr. Diaz's Preliminary Hearing complies with the recommendations of the Center for Disease Control (CDC), the World Health Organization (WHO), and the Government of Puerto Rico to practice social distancing to the greatest extent possible at this critical phase of the global pandemic.
7. Therefore, Mr. Diaz requests that the Preliminary Hearing be continued until April 18, 2020. The undersigned informs that if anything changes to warrant advancing or further continuing the Preliminary Hearing, the defense will promptly file another motion at that time.

WHEREFORE, it is respectfully requested that this Honorable Court take notice of this motion and that the same be granted.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this date I electronically filed the present motion with the Clerk of Court using the CM/ECF system, which will send electronic notification of said filing to all parties of record.

RESPECTFULLY SUBMITTED,

In San Juan, Puerto Rico, this 18th day of March, 2020.

**ERIC ALEXANDER VOS**  
**Chief Defender**  
**District of Puerto Rico**

S/Samantha K. Drake  
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