



U.S. Department of Justice

United States Attorney
Southern District of New York

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The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

January 21, 2020

1/21/2020
Stay continued until
Cert Petition is fully
decided

BY ECF & ELECTRONIC MAIL

The Honorable Colleen McMahon
Chief United State District Judge
500 Pearl Street
New York, New York 10007

Re: *Gibron Lopez v. United States*, 16 Cv. 9095 (CM); 15 Cr. 002 (CM)

Dear Chief Judge McMahon:

MEMO ENCLOSED

The Government writes in connection with the pending Section 2255 motion in the above-captioned case (the "Motion"), involving a claim related to the constitutionality of the defendant's Section 924(c) conviction under *United States v. Davis*, 139 S. Ct. 2319 (2019). By Order dated December 10, 2019, the Court stayed the Motion pending the resolution of the defendant's appeal of his conviction and 40-year sentence under docket number 16 Cr. 323 (KPF). By Summary Order dated December 19, 2019, the Second Circuit upheld the defendant's conviction and sentence in that case. (See Dkt. No. 18-2040, Dkt. Entry 157). Thereafter, on or about January 8, 2020, the defendant filed a petition for a writ of certiorari (the "Petition"); the Petition was placed on the Second Circuit docket sheet on January 16, 2020. (See Dkt. No. 18-2040, Dkt. Entry 169).

In light of the length of the defendant's sentence in the matter still on appeal, the Government has conferred with defense counsel regarding a further stay of the Section 2255 proceedings in the instant matter. Defense counsel informed the Government that the defendant consents to such a stay until after the Petition is resolved. Accordingly, the Government respectfully requests that the Court continue to stay proceedings in this case until after the defendant's Petition is decided.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: _____/s

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