

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	Docket No. 1:21-CR-00151-CKK
v.	:	
	:	(Judge Colleen Kollar-Kotelly)
BARTON SHIVELY	:	
	:	(Filed Electronically)

UNOPPOSED MOTION TO MODIFY CONDITIONS OF RELEASE

AND NOW, this 23rd day of April, 2021, comes Defendant Barton Shively, by and through his attorney Terrence J. McGowan, Esquire, and respectfully requests that this Honorable Court grant a request to modify Defendant's Pre-Trial Supervision conditions in the above-captioned matter, and in further avers the following:

1. Defendant, Barton Shively, was charged via Criminal Complaint on January 19, 2021 with the following: Aiding and Abetting, in violation of 18 U.S.C. § 2; Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); Forcibly assault, resist, oppose, impede, intimidate, or interfere with any officer or employee of the United States or of any agency in any branch of the United States Government

while engaged in or on account of the performance of official duties, in violation of 18 U.S.C. § 111(a)(1) and (2); Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1), (2), and (4); and, Violent Entry Obstruct or Impede Passage, Engage in Physical Violence on Grounds or any of the Capitol Buildings, in violation of 40 U.S.C. § 5104(e)(2)(D), (E) and (F). (Doc. 1).

2. On February 24, 2021, an Indictment was filed charging Mr. Shively with the following: **Count 1** - Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); **Counts 2 - 4** - Assaulting, Resisting, or Impeding Certain Officers, in violation of 18 U.S.C. § 111(a)(1); **Count 5** - Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1); **Count 6** – Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2); **Count 7** - Impeding Ingress and Egress in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(3); **Count 8** – Engaging in Physical Violence in Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(4); **Count 9** – Disorderly Conduct in a Capitol Building, in violation of 18 U.S.C. § 5104(e)(2)(D); **Count 10** – Impeding Passage Through the Capitol Grounds or Building, in violation of 18 U.S.C. § 5104(e)(2)(E); **Count 11** – Act of Physical Violence in the Capitol Grounds or Buildings, in violation of 18 U.S.C. § 5104(e)(2)(F).

3. On January 19, 2021, a Detention hearing was held before the Honorable Magistrate District Judge Martin C. Carlson in the United States District Court for the Middle District of Pennsylvania.

4. Magistrate Judge Carlson ordered that Mr. Shively be detained to home confinement and set numerous other conditions.

5. On March 12, 2021, Mr. Shively appeared before the Honorable Magistrate Judge Zia M. Faruqui with the United States District Court for the District of Columbia.

6. At that time, Magistrate Judge Faruqui set Mr. Shively's Conditions of Release. (Doc. 14).

7. As part of his Conditions of Release, Mr. Shively is ordered to home detention and his travel is restricted to the Middle District of Pennsylvania.

8. Mr. Shively's Conditions of Release also specifies that, for purposes of home confinement, Mr. Shively's residence includes "yard for walking dog."

9. Mr. Shively travels for work, and sometimes that travel includes areas within Pennsylvania, but outside of the Middle District.

10. Accordingly, Mr. Shively respectfully requests that his travel restrictions be modified to include the Western District of Pennsylvania and the Eastern District of Pennsylvania.

11. Moreover, there appears to be clarification required for the meaning of “residence” for home confinement purposes.

12. Mr. Shively owns two (2) dogs, and he lives alone on a small lot within a residential community.

13. Pursuant to his Conditions of Release, Mr. Shively’s residence “includes yard for walking dog.”

14. Currently, he is required by Pre-Trial Services to provide a specific time for walking his dogs within the perimeters of his property.

15. Because Mr. Shively cannot control his dogs’ schedule for relieving themselves, he respectfully requests permission to be able to have unlimited access to all areas of his property during his home confinement, at whatever time of day.

16. Accordingly, Mr. Shively is respectfully requesting that his conditions be modified to permit him to travel within the Eastern District of Pennsylvania and the Western District of Pennsylvania, and that he shall have access to his entire property, inside and outside, during his home detention at whatever time of day.

17. Assistant United States Attorney, Emory Cole, Esquire, has no objection to this request.

WHEREFORE, it is respectfully requested that Defendant, Barton Shively’s Pre-Trial Supervision conditions be modified to permit him to travel within the Eastern District of Pennsylvania and the Western District of

Pennsylvania, and that he shall have access to his entire property, inside and outside, during his home detention at whatever time of day.

Respectfully submitted,

April 23, 2021

/s/ Terrence J. McGowan
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CERTIFICATE OF CONCURRENCE

Undersigned Counsel, through his Associate Sarah M. Lockwood, Esquire, contacted Assistant United States Attorney Emory Cole and he has no objection to the granting of this Motion.

Respectfully submitted,

April 23, 2021

/s/ Terrence J. McGowan
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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person indicated below via electronic filing:

Emory Cole, Esquire
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April 23, 2021

/s/ Terrence J. McGowan
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ORDER

AND NOW, this ____ day of _____, 2021, upon consideration of Defendant's Unopposed Motion to Modify Conditions of Release, and any response thereto, said Motion is hereby GRANTED. Defendant's Home Detention boundary shall include his entire property, with no time restriction. Additionally, Defendant's travel restrictions shall be modified to include the Eastern District of Pennsylvania and the Western District of Pennsylvania.

Judge Colleen Kollar-Kotelly