

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

CASE NO.: 21-CR-129

Plaintiff,

vs.

Gabriel Garcia,

Defendant.

MOTION TO TEMPORARILY REMOVE GPS MONITOR FOR MEDICAL REASONS

COMES NOW, the Defendant, Gabriel Garcia, and files his Motion to Temporarily Remove GPS Monitor for Medical Reasons, and states the following grounds:

FACTUAL GROUNDS

1. Mr. Garcia has a GPS ankle monitor as part of his pretrial release conditions.
2. On January 20, 2022, while descending a ladder for work, his GPS ankle monitor got caught in the ladder, causing him to fall hard to the ground and dislocate his left shoulder. His medical providers now need to perform an MRI on the shoulder to see how bad his rotator cuff was torn, which will determine if he needs surgery. His medical providers have told him the MRI testing and the surgery, if needed, cannot be performed while he has his GPS ankle monitor on. (Medical Records Attached as Exhibit).
3. Mr. Garcia has been out on pretrial release with the GPS-ankle monitor since February 2021, without incident. Also, this Court has removed his curfew and has allowed him to travel numerous times, without incident.
4. Counsel contacted AUSA A. Buckner for the Government's position. She stated the Government does not oppose this Motion, but requests that Mr. Garcia confirm that removal of the monitor is necessary for the MRI procedure, and ensure all arrangements are made through

and approved by Pretrial ahead of time. Further, the Government states that Pretrial defers to the Court on their position.

5. Mr. Garcia asserts, in good faith, that his medical providers told him that the monitor must be removed to conduct the MRI procedure.

MEMORANDUM OF LAW

This Court can grant Mr. Garcia's request under 18 U.S.C. § 3142. The party requesting the modification must "establish that new information exists that was not known to him or her at the time of the initial detention hearing, and that this new information is material to his or her release conditions regarding flight or dangerousness." *United States v. Wei Seng Phua*, 2015 WL 127715, at *1 (D. Nev. Jan. 8, 2015); *see* 18 U.S.C. § 3142(f). Specifically, Mr. Garcia requests his ankle monitor be temporarily removed for the MRI and, if necessary, for a surgery. His medical providers have told him the MRI cannot be performed with his ankle bracelet on, and the same goes for any surgery. And as stated before, Mr. Garcia has no criminal history, is not a flight risk, and there have been no issues with this Court since he has been out on release.

WHEREFORE, Mr. Garcia respectfully moves this District Court to order his GPS ankle monitor be temporarily removed for medical reasons.

Respectfully submitted,

/s/Aubrey Webb
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was efiled to the Office of the Clerk, United States District Court, District of Columbia, 333 Constitution Ave., N.W. Washington D.C. 20001, Room 1225 and to the Office of the United States Attorney, 555 4th St N.W., Washington D.C. 20530, on January 25, 2022.

/s/Aubrey Webb