

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

MICHAEL JOHN LOPATIC, SR.,

Defendant.

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: Case No. 21-CR-35 (EGS)

**DEFENDANT MICHAEL JOHN LOPATIC, SR.'S THIRD MOTION TO MODIFY
CONDITIONS OF RELEASE**

Defendant Michael J. Lopatic, Sr. ("Mr. Lopatic"), by and through undersigned counsel, respectfully moves this Court to modify the conditions of his release to allow for the temporary removal of his ankle monitor. In support thereof, Mr. Lopatic states the following:

In a Superseding Indictment, Mr. Lopatic has been charged with one count of Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 U.S.C. §§ 1512(c)(2) and 2; one count of Assaulting, Resisting, or Impeding Certain Officers, in violation of 18 U.S.C. § 111(a)(1); two counts of Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); one count of Theft in a Federal Enclave, in violation of 18 U.S.C. § 661; one count of Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1); one count of Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2); one count of Engaging in Physical Violence in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(4); and one count of Act of Physical Violence in the Capitol Grounds or Buildings, in violation of 40 U.S.C. § 5104(e)(2)(F).

On February 5, 2021, Mr. Lopatic had his initial appearance in the Eastern District of Pennsylvania. Following a detention hearing on February 9, 2021, Mr. Lopatic was detained

pending removal to the District of Columbia. Mr. Lopatic was subsequently transferred to the District of Columbia. On March 29, 2021, Mr. Lopatic had his initial appearance in the District of Columbia. On April 12, 2021, Mr. Lopatic filed an appeal of his detention order. The Court granted Mr. Lopatic's appeal and entered an Order Setting Conditions of Release, on April 26, 2021 [ECF 65]. Mr. Lopatic has been in full compliance with the Court's Order.

On September 15, 2021, Mr. Lopatic filed his First Motion to modify the conditions of his release to allow for the temporary removal of his ankle monitor to undergo a Magnetic Resonance Imaging (MRI) scan for the treatment of his brain tumor, which was previously scheduled on September 29, 2021 [ECF 114]. On January 26, 2022, Mr. Lopatic filed a Second Motion after his MRI scan was rescheduled for January 27, 2022 [ECF 170]. This Court granted both Motions on September 17, 2021 [ECF 117] and January 27, 2022, respectively. Mr. Lopatic was unable to undergo the MRI scan on January 27, 2022, and his scan has been rescheduled for February 10, 2022.

During the procedure, Mr. Lopatic is unable to wear any electronic devices, including an ankle monitor, as said devices would compromise the efficacy of the MRI scan. The completion of an MRI scan is critical to Mr. Lopatic's health. The MRI scan will be completed at the MRI Group in Lancaster County, Pennsylvania. Currently, Mr. Lopatic's conditions of release do not permit him to leave his residence in Lancaster, Pennsylvania. Following the completion of the MRI, Mr. Lopatic will notify the Pre-Trial Services Officer of the MRI's completion. The Pre-Trial Service Officer asked for 48 hours to re-attach the ankle monitor.

Counsel for the Government has not objected to Mr. Lopatic's previously filed Motions to modify the conditions of release to allow the temporary removal of his ankle monitor. On February 1, 2022, undersigned counsel sent an e-mail to Counsel for the Government asking if

the Government had any concerns with the filing of this Motion. As of the time of the filing of this Motion, counsel for the Government has not responded to undersigned counsel's e-mail. Undersigned counsel therefore assumes that the Government does not have any objections to this Motion.

I. CONCLUSION

For the foregoing reasons, Defendant Michael J. Lopatic, Sr., respectfully requests that this Honorable Court modify the conditions of his release to allow for the temporary removal of his ankle monitor.

Respectfully Submitted,

/s/ Dennis E. Boyle

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of February 2022, I electronically filed the foregoing Motion and proposed Order with the Clerk of Court using the CM/ECF system, which will send an electronic notification of such filing to all counsel of record.

/s/ Dennis E. Boyle

Dennis E. Boyle, Esquire

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[PROPOSED] ORDER

Upon consideration of Defendant Michael John Lopatic, Sr.'s Third Motion to Modify Conditions of Release, it is

ORDERED, that the Order Setting Conditions of Release [ECF 65] is hereby modified to allow the removal of Defendant's ankle monitor. Mr. Lopatic may remove his ankle monitor the morning of the MRI. Following the completion of the MRI, Mr. Lopatic shall notify the Pre-Trial Services Officer of the MRI's completion, and the Pre-Trial Service Officer shall re-attach the ankle monitor.

All other conditions of release remain in full force and effect.

Emmet G. Sullivan
United States Judge