

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

UNITED STATES OF AMERICA

V.

MICHAEL STEVEN PERKINS

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CRIMINAL NUMBER 21-447-4

ORDER

AND NOW, this day of , 2022, the Court grants Defendant's Third Motion for Modification of Conditions of Pretrial Release. It is hereby **ORDERED** that the conditions of Mr. Perkins shall be placed on Stand Alone Monitoring and is no longer placed on Home Detention.

BY THE COURT:

THE HONORABLE CARL J. NICHOLS
United States District Court Judge

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V.	:	CRIMINAL NUMBER 21-447-4
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MICHAEL STEVEN PERKINS	:	

**DEFENDANT'S THIRD MOTION FOR MODIFICATION
OF CONDITIONS OF PRETRIAL RELEASE**

Michael Steven Perkins, by and through his attorney, Nancy MacEoin, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, respectfully requests Mr. Perkins be removed from home detention and placed on stand-alone electronic monitoring. As grounds, counsel avers as follows:

1. On June 25, 2021, Magistrate Judge G. Michael Harvey signed a Criminal Complaint and Arrest Warrant for Mr. Perkins alleged criminal conduct on January 6, 2021 on the grounds of the United States Capitol Building. Law enforcement agents arrested Mr. Perkins at his home in Plant City, Florida on June 30, 2021, pursuant to this warrant.

2. On July 1, 2021, a grand jury returned an indictment charging Mr. Perkins with assaulting, resisting, or impeding certain officers using a dangerous weapon in violation of 18 U.S.C. §§ 111(a)(1) and (b), entering or remaining in a restricted building or grounds in violation of 18 U.S.C. § 1752(a)(1), disorderly and disruptive conduct in a restricted building or grounds in violation of 18 U.S.C. § 1752(a)(2), engaging in physical violence in a restricted building or grounds in violation of 18 U.S.C. § 1752(a)(4), and act of physical violence in the Capitol grounds or buildings in violation of 40 U.S.C. § 5104(e)(2)(F). Mr. Perkins is one of five

individuals charged in this indictment.¹

3. On July 12, 2022, a grand jury returned a superseding indictment against all five defendants. In addition to the charges of the original indictment, the superseding indictment also charges Mr. Perkins with civil disorder in violation of 18 U.S.C § 231(a)(3). Docket Entry No. 116.

4. The government moved to detain Mr. Perkins pretrial. Docket Entry No. 10. The Honorable G. Michael Harvey heard oral argument on the government's motion on July 8, 2021. On July 13, 2021, Judge Harvey issued an Order releasing Mr. Perkins from custody forthwith and an Order Setting Conditions of Release. Docket Entry No. 27 and 29. One condition of Mr. Perkin's release was that he is to remain on home detention with location monitoring via GPS. Docket Entry No. 29, ¶¶ (7)(p)(ii) and (7)(q)(iv). Mr. Perkins resides at his family home in Plant City, Florida.

5. Mr. Perkins has remained in compliance with all aspects of pretrial release since his release on July 13, 2021, over 13 months ago. This Court has granted several requests for modification of conditions of release to allow Mr. Perkins to attend religious events, no longer requiring drugs testing, and to allow him to have contact with co-defendants. Docket Entry Nos. 62, 99, 115. This Court previously denied Mr. Perkins' request to modify conditions of release to remove Home Detention and place him on Stand-Along Monitoring. However, for the reasons cited herein, Mr. Perkins respectfully requests this modification now be granted.

6. On August 10, 2022, defense counsel spoke to Pretrial Services Officer Anthony Zarate, who is supervising Mr. Perkins. Mr. Zarate confirmed that Mr. Perkins has been in full

¹ As of August 11, 2022, the lead defendant, Jonathan Daniel Pollock, has not been apprehended.

compliance of all aspects of pretrial release. Additionally, Mr. Zarate confirmed that there have been ongoing issues with the GPS monitoring equipment. Specifically, due to equipment error, Mr. Perkins GPS continues to send alerts that he is outside of his home during hours he is actually physically in the home. The monitoring center calls Mr. Perkins' home and then alerts pretrial services. The pretrial services officer can then verify that Mr. Perkins is in fact at his home, in full compliance with home detention. As stated in Mr. Perkins' previous Motions to Modify Pretrial Release (Docket Entry No. 40), this has to do with "drifting" issues with the sensors due to the construction materials of the home and other factors beyond the control of Mr. Perkins and pretrial services. These false alerts continue to occur and often happen in the middle of the night. In the last several months, Mr. Perkins received phone calls from the monitoring company at the following dates and times because they were alerted that he was not in the home, when he was, in fact, present in the home:

June 7 - 11:16 p.m.
June 20 - 5:43 a.m.
June 30 - 7:42 a.m.
July 2 - 11:46 p.m.
July 4 - 12:19 a.m.
July 10 - 11:55 p.m.
July 11 - 11:30 p.m.
July 25 - 12:36 a.m.
July 28 - 12:06 a.m.
July 29 - 12:12 a.m.
July 30 - 1:30 a.m.
July 31 - 11:53 p.m.
August 3 - 12:38 a.m.
August 4 - 12:44 a.m.
August 9-12:48 a.m.
August 11-11:20 p.m.

These false alerts are inconvenient, disturb Mr. Perkins and his family, and unnecessarily draw resources from pretrial services.

7. Mr. Perkins respectfully requests the Order Setting Conditions of Release be modified, removing the requirement of Home Detention, and placing him on Stand Alone Monitoring. As indicated in ¶ (7)(q)(iv), Stand Alone Monitoring will be used in conjunction with the GPS monitor. The difference is that he will not have a curfew, be on home detention, or home incarceration restrictions.² This will prevent the false alert issues home confinement has presented but will still ensure Mr. Perkins is appropriately monitored. Additionally, Mr. Perkins is self-employed as a handyman. Removing the condition of the curfew will allow him to accept emergency calls at any time of the day or night and therefore increase his earning potential. The GPS monitoring will be sufficient to monitor his location and ensure continued compliance with all conditions of pretrial release.

8. Assistant United States Attorney Benet Kearney has informed defense counsel that the government opposes this Motion to Modify Conditions of Release.

WHEREFORE, Mr. Perkins respectfully requests the Court remove the Home Confinement condition of his release and instead place him on Stand Alone Monitoring. Mr. Perkins has proven he can be safely and successfully supervised in the Middle District of Florida as he has been in full compliance with all conditions since his release on July 13, 2021. Furthermore, placing him on Stand Alone Monitoring will prevent these false alerts due to equipment malfunction and ultimately save resources of the pretrial services office.

Respectfully submitted,

/s/ Nancy MacEoin
NANCY MacEOIN
Assistant Federal Defender

² The three other defendants charged in the same indictment are all under Stand Alone Monitoring.

CERTIFICATE OF SERVICE

I, Nancy MacEoin, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I filed the attached Defendant's Third Motion for Modification of Conditions of Pretrial Release via the Court's Electronic Filing (ECF) system which sent notification to Benet Kearney, Assistant United States Attorney, One Saint Andrew's Place, New York, New York 10007, via her email address Benet.Kearney@usdoj.gov.

/s/ Nancy MacEoin
NANCY MacEOIN
Assistant Federal Defender

DATE: August 12, 2022