

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

UNITED STATES OF AMERICA,

v.

RICHARD BARNETT,

Defendant.

Case No. 21-cr-0038 (CRC)

**DEFENDANT RICHARD BARNETT'S REPLY MEMORANDUM TO
GOVERNMENT'S OPPOSITION TO DEFENDANT'S
MOTION FOR MODIFICATION OF RELEASE**

I. INTRODUCTION

To this day, not only is the government opposing Mr. Barnett's right to work while on pretrial release, it is also once again, attempting to create conditions of criminality where none exist. As the government did in its Opposition to Defendant's Motion for Pretrial Release, again, in the instant opposition¹ the government has fabricated lies, bent the truth, and distorted facts in a pathetic attempt to cast Richard Barnett in the worst possible light, so as to deprive him of freedom, liberty, and justice. The claims the government makes continue to be unsubstantiated and are more suitable for the tabloids, as it has become apparent that such misstatements will immediately be misrepresented by the media to the American public.

As we have stated, Richard Barnett has no criminal history. Despite this fact, the government has represented to this Court on multiple occasions that Barnett's imaginary criminal

¹ In its opposition, the government asks this Court to impose more restrictive conditions on Barnett's pretrial release without properly filing a motion requesting that relief.

past makes him dangerous, and that somehow Richard has recently engaged in improper conduct. This could not be further from the truth.

Another prime example is that pretrial service's position was misrepresented to this Court. (See June 17, 2021 U.S. Probation Officer Email attached as **Exhibit A** (stating in part, "if the Court deems it appropriate, this USPO *is comfortable with* approving leave outside a 50-mile radius")). The Government's footnote stating, "[a]s a preliminary matter, the defendant's PSO noted that she did not support or join the defendant's request, as has been stated by the defense, but, rather, takes no position" is yet another example of the lengths the government is willing to take to misstate the record. This behavior is unacceptable. The list of misstates in this single opposition goes on-and-on.²

The government's continued use of fictitious nonsense to manipulate the law to achieve its own dubious end is reprehensible, disrespectful to this Court, and offensive to the attorneys who strive to win their cases within the rules by artfully arguing their cases on the merits by applying law to fact.

II. STATEMENT OF FACTS

On April 27, 2021, this Court granted Richard Barnett's Motion for Modification of Bail and released Mr. Barnett into the High Intensity Supervision Program under the conditions set forth in this Court's April 28, 2021 Order. (See ECF Doc. #: 29). Since that time Richard Barnett has been compliant with the conditions of his release. This certified fact is memorialized in the June 15, 2021, PRETRIAL COMPLIANCE REPORT. (See ECF Doc. #: 34). This fact is yet again corroborated by statements made by United States Pretrial Officer Rachel Roisen-Avant in

² See also Government's Opposition at p. 3 where the answer Mr. Barnett is now alleged to have stated to a reporter *was not even in response* to the question the government references.

her June 17, 2021 email to Joseph D. McBride, Esq., Barnett's defense attorney, which states in its entirety the following:

If the Court deems it appropriate, this USPO is comfortable with approving leave outside a 50-mile radius; however, this USPO is not comfortable with approving overnight travel without the Court's approval. The defendant has had two interactions with law enforcement of note. On one occasion, law enforcement was dispatched to the defendant property for a report of gunfire. Law enforcement determined that there the gunfire did not come from the defendant's property. The other incident was determined to be a civil dispute. The detective determined that there was no evidence of criminal wrongdoing.

(See June 17, 2021 U.S. Probation Officer Email attached as **Exhibit A**).

III. ARGUMENT

A. THE GOVERNMENT LIED WHEN IT STATED THAT RICHARD BARNETT HAS BEEN PERMITTED FULL REIGN OF HIS PROPERTY.

At no point in time has Mr. Barnett been permitted full reign of his property. Richard Barnett lives on eight (8) acres of land. While on home detention his movement has been restricted to approximately two (2) acres of his land, where he works on his cars and trucks, and maintains his property, as per an agreement with Arkansas Pretrial Services. A consequence of buying and selling automobiles, Mr. Barnett has vehicles, parts, and tools strategically placed on the portions of his acreage where he has been granted regular access by Arkansas Pretrial Services. As such, these are the areas he frequents the most. In terms of limitations, Mr. Barnett is not permitted to go past the gate at the bottom of his property absent permission. He is also not allowed to go into the woods on the East side of his property. Therefore, the government's assertion that Barnett has full reign of his property is a lie, without merit, and should be given no weight whatsoever.

B. THE GOVERNMENT’S ASSERTION THAT MR. BARNETT’S BIRTHDAY PARTY IS SOMEHOW REFLECTIVE OF HIS TAKING ADVANTAGE OF HIS ARRAIGNMENT WITH PRE-TRIAL SERVICES IS YET AGAIN A LIE.

To be clear, Mr. Barnett did celebrate his birthday at home with approximately 10-12 people who were not at the Capitol on January 6, 2021. Nowhere in the conditions of his release is there a prohibition against this. The fact that the government is trying to convert this into some kind of nefarious behavior is demonstrative of the fact that government will stop at nothing to make Mr. Barnett’s life a living hell. Be that as it may, the fact remains that Mr. Barnett had a birthday party with Pretrial Service’s permission. As such, these actions should be weighed in his favor, not against him, as it evidences compliance with the conditions of his release.

C. THE GOVERNMENT’S ARGUMENT THAT LAW ENFORCEMENT HAS BEEN CALLED TWO TIMES FOR UNVERIFIABLE REASONS HAS NO MEANING AND SHOULD BE GIVEN NO WEIGHT AGAINST MR. BARNETT WHATSOEVER.

Mr. Barnett’s release conditions prohibit him from violating federal, state, and or local law. The government has stated that on two occasions, an unidentified party called about Mr. Barnett for unverifiable reasons. This is a statement without meaning. Surely the government is not asking this court to consider as evidence of wrongdoing the fact that some mystery person from an undisclosed location made a report against Mr. Barnett that went absolutely nowhere?

To be clear, local law enforcement came to Mr. Barnett’s residence one time, not two as the government asserts. The reason why law enforcement came is because someone, somewhere, was discharging a weapon in the hills of Arkansas. Law enforcement found no wrongdoing whatsoever on Mr. Barnett’s part, and wrapped up its investigation that day. Despite this reality, we find ourselves once again having to debunk lies and mischaracterizations made by the government.

The other occasion was a business dispute where the police were called and the explanation, however, is simple. Richard Barnett buys and sells automobiles and their parts. Mr. Barnett entered into a transaction with a man from outside of Fayetteville, Arkansas. That man's residence was over 50 miles away, therefore Barnett was not able to go to his residence like he would under normal circumstances. The man called Mr. Barnett, and made an offer to give Mr. Barnett \$1500.00 (One Thousand Five Hundred Dollars), a 1940 Chevy truck, and 1941 Chevy Truck with all their relevant parts in exchange for Barnett's Custom-Built Honda 100 RR motorcycle.

The man explained to Barnett that he wanted to help Barnett out of patriotic duty, as he recognized Barnett from media coverage. Normally Barnett would have traveled to the seller's location, inspected, assessed, and appraised the trade. Not wanting to miss out on the deal, and not having time to obtain this Court's permission, Barnett went forth with the deal, only to end up having the 1941 Chevy Truck arrive stripped of its most expensive parts, including the engine. Barnett called the seller several times out of concern of being ripped off. The seller then called the police and made a false statement to police, knowing full well that Barnett was on pretrial release and under the supervision of this Court. Law enforcement investigated, and determined that Barnett had done nothing wrong. Despite this reality, the government has used this unfortunate situation to argue that Mr. Barnett should not only have his modification request denied, but also have his ability to provide for his family and work on his land restricted even more.

The government's arguments about police reports should be given no merit whatsoever as they fall grossly short of demonstrating non-compliance with Barnett's conditions of release. Furthermore, the fact that Barnett was materially disadvantaged in a business transaction due to

the 50-mile-radius restriction, should serve as corroborative evidence of the need for said clause to be modified as per our modification motion.

D. THE ARGUMENT THAT RICHARD BARNETT TELLING RUSSIAN TV THAT HE WILL NEVER STOP EXERCISING HIS FIRST AMENDMENT RIGHT TO FREE SPEECH IS SOMEHOW EVIDENCE OF DANGEROUSNESS IS MERITLESS.

There is no condition of Mr. Barnett's pretrial release that prevents him from exercising his First Amendment Rights, because such a prohibition would on its face be unconstitutional. Mr. Barnett's statement that he will continue to exercise his First Amendment rights might subject Mr. Barnett to restrictions of his liberty in Russia if he were a Russian citizen, but his utterance, that advocates no violence, is hopefully protected speech in the United States. The government's frivolous and meritless argument is nothing more than tabloid fodder and should be given no weight whatsoever by this Court.

E. THE GOVERNMENT'S ARGUMENT REGARDING RICHARD BARNETT RAISING FUNDS FOR HIS LEGAL DEFENSE IS MERITLESS AND SHOULD BE GIVEN NO WEIGHT WHATSOEVER.

The AUSA in this matter has the entire FBI at her beck-and-call, including all of its resources, tricks, and media to back every allegation. They have hundreds of agents, investigators, and resources that only one man could dream of.

The DOJ's prosecution of persons accused of January 6th related crimes is now the largest in its storied history. The DOJ's corresponding budget to prosecute these cases is the largest in its history as well. All Mr. Barnett has in this case is his few attorneys. In order to maintain his freedom, he must be able to make ends meet and fund his defense accordingly.

The government assertion that raising money for his defense is problematic is without merit as there is no condition of Mr. Barnett's pretrial release that prevents him from raising money for his legal defense. As stated on www.bigobarnett.com, Barnett's legal fund is managed by the McBride Law Firm PLLC in compliance with Model Rule 1.8(f) and D.C. Rule 1.15.

Unlike the government, Mr. Barnett does not have the American Taxpayer footing the bill for his legal case. And while the government is well within its rights to dislike the fact that Mr. Barnett is attempting to raise money for his defense, it has zero grounds to interrupt and/or prevent Barnett from doing so, unless he violates the conditions of his release, which he certainly has not done.

F. THE GOVERNMENT’S PROPOSED ADDITIONAL REQUESTS SHOULD BE REJECTED IN THEIR ENTIRETY AS THEY ARE CLEARLY PUNITIVE, VINDICTIVE, AND MERITLESS.

First, the government wants Mr. Barnett “to remain inside of his residence (not elsewhere on his property) except during business’s hours, 9 a.m. to 5 p.m. While a government bureaucrat’s “business hours” may be 9-5, the “business hours” of the average American worker, especially those who live outside the beltway in rural areas like Mr. Barnett does, are from sunrise until the job gets done, which often means late into the night. While it may be possible for a U.S. Attorney to prosecute a criminal defendant from the comfort of her home. It is not possible for Richard Barnett to rebuild the engine or replace the transmission on a 1940’s Dodge Truck from the comfort of his living room couch. Nor is it possible for him to inspect, appraise, and purchase a classic automobile where each part must be verified up close and in person from a lap top computer.

Second, the government wants Mr. Barnett to report “all funds received from any source, including any spousal income to Pretrial Services.” This requirement is unnecessary to ensure the safety of the community, inappropriately invasive, and will only impose more administrative and accounting burdens on Mr. Barnett and pretrial services. These proposed additional requests, including the request for a hearing should be dismissed in their entirety, with prejudice.

Lastly, regarding overnight travel, Mr. Barnett will continue to respectfully request this Court’s permission on a case-by-case bases, as the perspective need arises.

IV. CONCLUSION

The government argues that Mr. Barnett “. . . has displayed a notable lack of caution as to his conditions of release” but fails to allege sufficient facts demonstrating the validity of its arguments. The government has done nothing more than homogenize a series of lies, bent truths, and distorted facts in a pathetic attempt to cast Richard Barnett in the worst possible light, so as to deprive him of freedom, liberty, and justice, by creating conditions of controversy where none exists. As such, the government’s arguments should be rejected.

Dated: June 17, 2021

Respectfully Submitted,

/s/ Joseph D. McBride, Esq.

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Richard Barnett

1 message

Rachel Roisen-Avant <Rachel_Roisen@arwp.uscourts.gov>

Thu, Jun 17, 2021 at 2:09 PM

To: "jmcbride@mcbridelawnyc.com" <jmcbride@mcbridelawnyc.com>

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