

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :  
 :  
 v. : Case No. 1:21-cr-142 (CJN)  
 :  
 SAMUEL FISHER, :  
 :  
 Defendant :

**GOVERNMENT’S RESPONSE TO MOTION FOR VOLUNTARY SURRENDER AND  
TO AMEND THE JUDGMENT**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this response to the defendant’s Motion for Voluntary Surrender and to Amend the Judgment (Doc. No. 46).

In the Judgment (Doc. No. 43), this Court stated that “[t]he defendant is remanded to the custody of the United States Marshal.” (*Id.* at 2.) In his post-sentencing motion, the defendant asks the Court to effectively supersede that aspect of the Judgment and allow him to voluntarily surrender. (Doc. No. 46 at 1). The defendant also requests that the Court amend the judgment to state that the Court does not object to his participation in certain rehabilitation programs while he serves his state sentence in New York. (*Id.*)

On the merits, the government has no substantive objection to the relief requested by the defendant. At the same time, it is not clear that the defendant has established this Court’s authority to grant the relief he requests. The defendant cites (Doc. No. 46 at 4 n.3) Federal Rule of Criminal Procedure 36, which provides: “After giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.” Fed. R. Crim. Proc. 36. But the defendant does not persuasively explain how the Judgment’s directive remanding him to the custody of the United

States Marshal constituted an “error,” let alone a “clerical error” or an “error ... arising from oversight or omission” as required by Rule 36. And the same is true of the Judgment’s omission of the language that the defendant now requests. If, however, the Court finds that it has authority to grant the relief requested (either under Rule 36 or otherwise), the government does not oppose relief on the merits.

November 9, 2022

Respectfully submitted,

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