

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

DANIEL JAY HERENDEEN,

Criminal Case No. 21-278(BAH)

Hon. Beryl A. Howell

MOTION TO CONTINUE HEARING

Daniel Herendeen, through counsel Colleen P. Fitzharris, moves to continue the probation violation hearing scheduled to take place in person on March 29, 2024, at 9:30 am. In addition, he respectfully asks that the hearing be conducted by video.

Mr. Herendeen pleaded guilty to Entering and Remaining in a Restricted Building or Grounds, 18 U.S.C. § 1752(a)(1). This Court sentenced him to 36 months' probation. Dkt. 87, Judgment. On January 11, 2024, undersigned counsel received notice of an in-person hearing to address alleged violations of probation. The violation petition alleges that Mr. Herendeen committed a criminal offense, failed to report his arrest within 72 hours, failed to comply with the special condition that he submit to two months' home detention, failed to report to his probation officer as directed, and relocated without approval from the Probation Department. Mr. Herendeen asks the Court to continue the hearing for two reasons.

First, at the end of December 2023, Mr. Herendeen was in a horrific car accident and was hospitalized. He is currently on bed rest and cannot travel for at least six weeks. Ex. 1, Medical Record (SEALED). As of March 12, 2024, his doctor does not believe he can travel in his current medical condition. Mr. Herendeen's next appointment is scheduled for June 6, 2024, when the doctor will again assess his ability to travel.

Second, the first violation alleged is that Mr. Herendeen committed criminal offenses. He has been charged, and the case is still pending in Michigan courts. A pretrial conference is scheduled in the 16th Circuit Court on March 28, 2024. Ex. 2, 16th Cir. Ct. Dkt. The pretrial conference in 41B District Court in Clinton Township, Michigan, is scheduled for April 1, 2024. Ex. 3, 41B Dist. Ct. Dkt.

Mr. Herendeen asks this Court to continue the hearing regarding Violation 1 to allow the criminal proceedings to resolve. Resolution of the charges in state court may obviate the need for an evidentiary hearing. Mr. Herendeen enjoys more constitutional protections in those ongoing criminal proceedings than in hearings for alleged probation violations. He asks for the opportunity to defend against those charges in state court before addressing the violation in federal court. If the Court wishes to address the other alleged violations before that time, Mr. Herendeen asks that that hearing take place either at a later date or by video.

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CONCLUSION

Mr. Herendeen respectfully asks this Court to continue the hearing on the alleged probation violations for at least 90 days. In the alternative, if the Court wishes to proceed sooner, he asks to appear by video.

Date: March 20, 2024

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
WESTERN DISTRICT OF WASHINGTON
s/ Colleen P. Fitzharris
Counsel for Daniel Herendeen
1601 Fifth Ave., Suite 700
Seattle, Washington 98101
(206) 830-2926
colleen_fitzharris@fd.org

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2024, I electronically transmitted the foregoing document to the Clerk of Court using the ECF system for filing and transmittal of Notice of Electronic Filing to all parties of record.

Date: March 20, 2024

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
WESTERN DISTRICT OF WASHINGTON
s/ Colleen P. Fitzharris
Counsel for Daniel Herendeen
1601 Fifth Ave., Suite 700
Seattle, Washington 98101
(206) 830-2926
colleen_fitzharris@fd.org