

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

UNITED STATES OF AMERICA)
)
 v.) **21-mj-71 (BAH)**
)
 ERIC MUNCHEL)

**DEFENDANT’S MOTION TO ADOPT AND JOIN MOTION FILED BY CO-
DEFENDANT LISA EISENHART’S EMERGENCY MOTION TO RESCIND STAY OF
RELEASE ORDER**

Defendant Eric Munchel, by and through counsel, respectfully moves this Court to allow him to adopt and join co-defendant Lisa Eisenhart's emergency motion to rescind the stay of the Magistrate Judge's detention order. In support of this motion, the defendant provides the following facts:

1. Magistrate Judge Jeffrey S. Frensky of the Middle District of Tennessee, Nashville Division, held a detention hearing in this case on Friday, January 22, 2021, at which Mr. Munchel, unable to afford counsel, was represented by the Federal Public Defender for the Middle District of Tennessee.
2. The Magistrate Judge received testimony, video and documentary evidence at the hearing, and made factual findings pursuant to the Bail Reform Act, 18 U.S.C § 3142 *et seq.*, in support of its finding that the government had not proven that no conditions or combination of conditions could assure Mr. Munchel's return to court and the safety of the community. *See* 21-mj-02668 (Middle District of Tennessee), Docket No. 10.
3. The court ordered Mr. Munchel's release with strict conditions requiring that Mr. Munchel be placed in home confinement in the custody of Ms. Miller, who had testified

at the hearing and who would serve as a third-party custodian, with location monitoring; submit to the supervision by the Pretrial Services office, and call Pretrial Services at least weekly; submit to home visits by Pretrial Services; continue or actively seek employment; remain within the Middle District of Tennessee; refrain from traveling to the District of Columbia, except regarding this case; avoid all contact, directly or indirectly with any person who may be a victim or witness in this case, including his co-defendant mother; not possess a firearm, destructive device, or other dangerous weapon; not use alcohol excessively, and not use or possess any controlled substance; submit to drug testing if required by Pretrial Services; and participate in substance abuse therapy if directed by Pretrial Services. *See id.*, Docket 12 at 186-189; Docket 11.

4. At the conclusion of the hearing, the government requested a three-day stay of the release order until Monday, February 25, 2021, “until . . . we can appeal that issue in DC.” *See id.*, Docket 12 at 192-194, 196. The government assured the court that “we’re only requesting that he be detained through Monday so that we can give the court in DC an opportunity to rule on the motion there.” *Id.* at 197.
5. Defense counsel argued against the stay based on the government’s weak showing of the government’s likelihood to succeed, and the fact that the government had not shown irreparable injury absent the stay. *Id.* at 195.
6. The court granted the government’s request, staying its release order for three days, until January 25, 2021 at 10:00 a.m.

7. On Sunday, January 24, 2021, the government appealed the Magistrate Judge's release order to this Court, and moved this Court for a stay of the release order *until the appeal is resolved*. *See* 21-mj-71, Docket No. 3 (emphasis supplied).
8. Government counsel certified that "I will provide a copy of the foregoing" appeal and motion for a stay to the Federal Public Defender in the Middle District of Tennessee, "who is currently representing the defendant in proceedings before that court." Government counsel did not serve the Federal Public Defender for the District of Columbia.
9. That same day, Sunday, January 24, 2021, without input from the Federal Public Defender for the Middle District of Tennessee or the Federal Public Defender for the District of Columbia, this Court granted the government's motion for a stay of the release order "pending review of the detention decision by this Court." *See id.*, Docket No. 4. The Court ordered that Mr. Munchel be transported to the District of Columbia "forthwith." *See id.*, Docket No. 5.
10. As of the day of this filing, February 4, 2021, Mr. Munchel remains detained in the Middle District of Tennessee.

Wherefore, for all the reasons set forth in Ms. Eisenhart's Motion to Rescind Stay of Release Order, the defendant respectfully requests this Court to rescind the stay of the Magistrate Judge's release order and to permit Mr. Munchel to travel to the District of Columbia for the purpose of appearing at a detention hearing.

Respectfully submitted,

A. J. KRAMER
FEDERAL PUBLIC DEFENDER

/s/

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