

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

KENNETH HARRELSON

Defendant.

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: Case No. 21-cr-28 (APM)
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MOTION FOR ORDER REGARDING MEDICAL TREATMENT

COMES NOW, the defendant, Kenneth Harrelson, by and through counsel, Nina J. Ginsberg and Jeffrey Zimmerman, and respectfully moves this Court to enter an order directing United States Marshals Service and the John E. Polk Correctional Facility to consult with Mr. Harrelson’s treating physician and to immediately provide such blood pressure monitoring and medical treatment and medication as are necessary to reduce his blood pressure to within normal levels as determined by the Centers for Disease Control and Prevention. In support of this motion, Mr. Harrelson states as follows:

On March 10, 2021, Kenneth Harrelson was arrested in Florida and taken into custody based on a criminal complaint in the instant case. See Rule 5(c)(3) Documents (ECF 122) (3/15/21) at 1. He is currently incarcerated at the John E. Polk Correctional Facility in Seminole County, Florida. On April 6, 2021, Mr. Harrelson was arraigned by this Court on a third superseding indictment charging him with Conspiracy in violation of 18 U.S.C. § 371; Obstruction of an Official Proceeding and Aiding and Abetting in violation of 18 U.S.C. §§ 1512(c)(2), 2; Destruction of Government Property and Aiding and Abetting in violation of 18 U.S.C. §§ 1361, 2; and Entering and Remaining in a Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(1). See Third Superseding Indictment (ECF 127) (filed 3/31/21). At that time, a detention

was set for April 14, 2021.

Mr. Harrelson suffers from severe hypertension (high blood pressure). During the arraignment, undersigned defense counsel brought to the Court's attention our information that, since his arrest and incarceration, Mr. Harrelson's blood pressure has been consistently recorded as being dangerously high. We expressed concern that the detention facility is not adequately treating this critical health issue.

Normal blood pressure is a reading of less 120/80. *See, e.g., Harvard Medical School, Reading the new blood pressure guidelines, HARVARD HEALTH PUBLISHING (6/1/20).*<sup>1</sup> "Elevated" blood pressure is a systolic (top number) reading 120-129 and a diastolic less than 80. Stage 1 Hypertension is a systolic 130-139 *or* a diastolic 80-89. Stage 2 Hypertension is a systolic reading of 140 or higher *or* a diastolic 90 or higher. It is considered a "hypertensive crisis" for an individual to have a systolic reading over 180 *or* a diastolic over 120. With hypertensive crisis readings, immediate consultation with a doctor is advised. The dangers of high blood pressure include heart attack, stroke, kidney failure and dementia. *See, e.g., High blood pressure dangers: Hypertension's effects on your body, MAYO CLINIC (5/5/21).*<sup>2</sup> In addition, there may be subsequent long-term dangers for someone of Mr. Harrelson's age who is suffering from sustained periods of extremely high blood pressure. *See Duke University Medical Center, High blood pressure poses heart/stroke event risk for people under age 40, SCIENCEDAILY (5/6/18).*<sup>3</sup>

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<sup>1</sup> <https://www.health.harvard.edu/heart-health/reading-the-new-blood-pressure-guidelines>

<sup>2</sup> <https://www.mayoclinic.org/diseases-conditions/high-blood-pressure/in-depth/high-blood-pressure/art-20045868>

<sup>3</sup> <https://www.sciencedaily.com/releases/2018/11/181106114104.htm> Noting that "[p]eople younger than age 40 who have high blood pressure are at increased risk of heart failure, strokes and blood vessel blockages as they age." Mr. Harrelson turned 40 a few months ago, on November 9, 2020. His current primary care physician has been monitoring and treating his high blood pressure since approximately 2016.

Defense counsel has attempted to obtain copies of Mr. Harrelson's medical records from the detention facility and has urged the medical unit to closely monitor Mr. Harrelson's blood pressure on a number of occasions. A "Medical Alert Form" was submitted to Chambers on April 9, 2021, with the request that it be provided to the United States Marshals Service. Defense counsel have also been in contact with United States Attorney's Office regarding our concerns about Mr. Harrelson's health. The United States Attorney's Office was recently able to obtain blood pressure (BP) readings taken at the detention facility for the period from March 25, 2021 to April 9, 2021. *See Exhibit 1* (screenshot of Excel spreadsheet containing readings provided by the government). There are a total of sixteen (16) readings (Mr. Harrelson's blood pressure was taken twice on March 26<sup>th</sup> and was not taken at all on April 3<sup>rd</sup>). Of the sixteen readings, *thirteen of them put him in Stage 2 Hypertension* and the remaining three blood pressure readings are high Stage 1 Hypertension.<sup>4</sup>

At Mr. Harrelson's arraignment, the Court encouraged counsel to submit a proposed an Order if they deemed the Court's assistance necessary to resolve Mr. Harrelson's unmet medical needs. A copy of the proposed order is attached. Assistant United States Attorney, Jeffrey Nestler, has authorized counsel to represent its position with respect to this motion as follows: that

"The government does not oppose the relief requested: that Defendant Harrelson receive adequate medical care while in pretrial custody. The government has been in contact with the U.S. Marshals Service in both Washington, D.C., and Orlando, which relayed the defense's concerns to the medical director at the Seminole County Jail. The medical director responded that Defendant Harrelson is currently receiving adequate medical care, is on his medications, and his 'blood pressure most of the times is within normal limits and even when it is elevated, which is rare, it was never a crisis.' Based on the efforts and awareness of the USMS and the Seminole County Jail, and the fact that the defense submitted a 'medical alert'

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<sup>4</sup> Stage 1 readings include the initial blood pressure reading taken on 3/26/21 (the subsequent BP that day was much higher, into Stage 2), the BP on 3/28/21 and the BP on 4/8/21. Every other blood pressure reading reflected Stage 2 Hypertension; i.e., a systolic reading of 140 or higher *or* a diastolic 90 or higher.

to the Court on April 6, 2021, the government respectfully submits that an order from the Court directing the USMS and Seminole County Jail to provide Defendant Harrelson with adequate medical care is not necessary.”

Contrary to the medical director’s assurances, Mr. Harrelson’s blood pressure is *not* “within normal limits” most of the time; rather, *none* of his blood pressure readings have been within normal limits. His last sixteen blood pressure readings reflect that — far from a “rare” occurrence, as claimed by the medical director — Mr. Harrelson’s blood pressure is *always* elevated, and is always elevated to a significant degree.

The symptoms Mr. Harrelson has reported, including chest pain and slurred speech, are also consistent with highly elevated blood pressure. The blood pressure readings reported by the detention center are consistent with a diagnosis of persistent Stage 2 Hypertension. His readings have been in the high Stage 1 range on the remaining occasions for which readings are available. The detention center’s assessment that that he “is currently receiving adequate medical care, is on his medications, and his ‘blood pressure most of the times is within normal limits and even when it is elevated, which is rare, it was never a crisis” is contradicted by the medical literature and by his symptoms, placing him at significant risk for serious, permanent injury or death.

For the foregoing reasons, Mr. Harrelson requests this Court enter the attached order and direct that it be served upon the United States Marshal’s Service and the medical director at the John E. Polk Correctional Facility.

Respectfully submitted,

KENNETH HARRELSON  
By Counsel

/s/

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#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of April 2021, a true and accurate copy of the foregoing was electronically filed and served via the Court's CM/ECF system to all counsel of record.

/s/

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JEFFREY D. ZIMMERMAN

***Exhibit 1:***  
**Kenneth Harrelson's Blood Pressure Readings**

<b>Date</b> ▼	<b>Time (24 hr)</b> ▼	<b>BP</b> ▼
3/25/21	11:29:39	141/96
3/26/21	0:01:52	122/86
3/26/21	9:46:52	137/99
3/27/21	9:22:03	133/95
3/28/21	8:54:26	139/86
3/29/21	12:26:24	146/91
3/30/21	12:18:23	145/88
3/31/21	10:00:38	143/93
4/1/21	9:53:34	142/93
4/3/21	9:49:32	143/98
4/4/21	9:19:23	140/80
4/5/21	9:11:22	138/93
4/6/21	10:23:33	150/90
4/7/21	8:46:23	135/91
4/8/21	9:29:57	127/89
4/9/21	11:36:06	144/87

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**ORDER**

This matter comes before the Court on the defendant, Kenneth Harrelson's motion regarding medical care while in pre-trial custody; and

The Court having found that while being held in the John E. Polk Correctional Facility in Sanford, Florida, Mr. Harrelson has been experiencing highly elevated blood pressure levels and related symptoms that include chest pain and slurred speech; and

The Court having further found that Mr. Harrelson's recent blood pressure readings indicate a diagnosis of persistent Stage 2 Hypertension that poses a threat to his health and safety; it is hereby

ORDERED that the United States Marshals Service immediately take such steps as are necessary to ensure that Mr. Harrelson is receiving sufficient blood pressure monitoring and treatment to reduce his blood pressure to within normal levels as determined by the Centers for Disease Control and Prevention; and it is

FURTHER ORDERED that the John E. Polk Correctional Facility consult with Mr. Harrelson's treating physician and immediately take such steps as are necessary to ensure that Mr. Harrelson is receiving sufficient blood pressure monitoring and treatment to reduce his blood

pressure to within normal levels as determined by the Centers for Disease Control and Prevention.

Date:

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AMIT P. MEHTA  
UNITED STATES DISTRICT JUDGE