

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

| | | |
|----------------|---|---------------------|
| _____ |) | |
| UNITED STATES, |) | |
| |) | |
| v. |) | Crim. No. 1:21cr134 |
| |) | |
| MARK SAHADY, |) | |
| Defendant. |) | |
| _____ |) | |

DEFENDANT’S MOTION FOR CLARIFICATION

Defendant Mark Sahady, by counsel, respectfully requests that the Court clarify that Defendant is no longer bound by the terms of the Order Setting Conditions of Release issued by the United States District Court for the District of Massachusetts on January 21, 2021 (attached) and is instead exclusively bound by the Order of Conditions of Release issued by this Court on February 11, 2021 (Doc. 8)

In order to avoid confusion, needless duplication of effort and because terms attending a judicial proceeding logically should spring from the venue of the proceeding, Defendant’s conditions of release during the pendency of his misdemeanor charges should be the exclusive province of the court adjudicating him – i.e., this Court.

Moreover, the Massachusetts order contains restrictions unnecessary, unenforceable and inappropriate. For example, how does one “stay away” from the Massachusetts State House? Boston’s subway, the “T,” traverses the substrata beneath the State House. Would Defendant violate the order by taking that line of the T? The State House is adjacent to the Boston Commons – home to aggressive geese and frequented by city residents and visitors alike. Did the Massachusetts court intend to bar Defendant from this popular and storied public space? Additionally, the Massachusetts court offers absolutely no justification for abridging Defendant’s

UNITED STATES DISTRICT COURT
for the
District of Massachusetts

United States of America

v.
Mark Sahady

Defendant

)
)
)
)
)

Case No. 1:21-mj-07005-JCB-1

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate federal, state, or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 42 U.S.C. § 14135a.
- (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence that the court may impose.

The defendant must appear at: _____
Place

on _____
Date and Time

If blank, defendant will be notified of next appearance.

- (5) The defendant must sign an Appearance Bond, if ordered.

ADDITIONAL CONDITIONS OF RELEASE

IT IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

() (6) The defendant is placed in the custody of:
Person or organization
Address (only if above is an organization)
City and state Tel. No.

who agrees to (a) supervise the defendant, (b) use every effort to assure the defendant's appearance at all court proceedings, and (c) notify the court immediately if the defendant violates a condition of release or is no longer in the custodian's custody.

Signed: Custodian Date

- (X) (7) The defendant must:
(X) (a) submit to supervision by and report for supervision to the Probation/Pretrial Services as directed, telephone number, no later than.
(b) continue or actively seek employment.
(c) continue or start an education program.
(X) (d) surrender any passport to: The Office of Probation & Pretrial Services
(X) (e) not obtain a passport or other international travel document.
(X) (f) abide by the following restrictions on personal association, residence, or travel: Travel is restricted to District of MA. Travel to Washington, D.C. for court purposes only with prior permission of U.S. Probation and Pretrial Services.
(X) (g) avoid all contact, directly or indirectly, with any person who is or may be a victim or witness in the investigation or prosecution, including: related defendants, unless in the presence of counsel. Government to provide a list of potential victims and/or witnesses and related defendants.
(h) get medical or psychiatric treatment:

() (i) return to custody each at o'clock after being released at o'clock for employment, schooling, or the following purposes:

() (j) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary.

(X) (k) not possess a firearm, destructive device, or other weapon.

() (l) not use alcohol () at all () excessively.

() (m) not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

() (n) submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.

() (o) participate in a program of inpatient or outpatient substance abuse therapy and counseling if directed by the pretrial services office or supervising officer.

() (p) participate in one of the following location restriction programs and comply with its requirements as directed.

() (i) Curfew. You are restricted to your residence every day () from to , or () as directed by the pretrial services office or supervising officer; or

() (ii) Home Detention. You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer; or

() (iii) Home Incarceration. You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the court.

() (q) submit to location monitoring as directed by the pretrial services office or supervising officer and comply with all of the program requirements and instructions provided.

() You must pay all or part of the cost of the program based on your ability to pay as determined by the pretrial services office or supervising officer.

(X) (r) report as soon as possible, to the pretrial services office or supervising officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops.

(X) (s) Lawfully surrender or remove firearms from residence within 48 hours and provide verification to U.S. Probation and Pretrial Services. No unlawful entrance into a State or Federal Building.

Defendant is ordered to stay away from the Boston State House.
Appear for an Initial Appearance Hearing at the date and time set by the District Court in D.C..
Do not attend or organize any public demonstrations/rallies/protests without prior permission of U.S. Probation and Pretrial Services.

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (i.e., in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
(2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
(3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
(4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above. I acknowledge that a warrant for my arrest has been signed by an authorized judicial officer and is being held in abeyance. The warrant may be activated without notice to me if I abscond in violation of the conditions of my release on electronic monitoring.

X [Signature]
Defendant's Signature

X [Signature] RF
City and State

Directions to the United States Marshal

- (X) The defendant is ORDERED released after processing.
() The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

Date: 1/21/2021

[Signature]
Judicial Officer's Signature

Steve York Deputy Clerk
Printed name and title



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

| | | |
|----------------|---|---------------------|
| _____ |) | |
| UNITED STATES, |) | |
| |) | |
| v. |) | Crim. No. 1:21cr134 |
| |) | |
| MARK SAHADY, |) | |
| Defendant. |) | |
| _____ |) | |

ORDER

Upon motion of Defendant Mark Sahady and for good cause shown, it is hereby
ORDERED that this Court's Order Setting Conditions of Release (Doc. 8) supplant in its
entirety the earlier order setting same by the United States District Court for the District of
Massachusetts of January 21, 2021.

Date: _____

HON. CARL J. NICHOLS
United States District Judge