

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

CASE NO.: 21-CR-129

Plaintiff,

vs.

Gabriel Garcia,

Defendant.

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**MOTION TO MODIFY PRETRIAL RELEASE CONDITIONS OF GPS MONITOR DUE  
TO CHANGE IN CIRCUMSTANCES**

COMES NOW, the Defendant, Gabriel Garcia, and files his Motion to Remove the GPS Monitor Due to Change in Circumstances, and states the following grounds:

**FACTUAL GROUNDS**

1. On January 19, 2021, the FBI arrested Mr. Garcia and brought him before a Magistrate in the Southern District of Florida for his initial appearance; he later posted the determined monetary bonds and GPS monitoring was not part of the conditions.
2. Subsequently, at his first appearance before a Magistrate Judge in the District of Columbia, the Government asked for a GPS monitor and a curfew because Mr. Garcia had been in possession of a legal pocketknife, which he used for work and placed in the security bin to clear the metal detector upon visiting his pretrial services officer. The Magistrate Judge granted the request. Mr. Garcia then sought review of these new conditions in the District Court, and the Chief Judge affirmed the Magistrate's ruling.
3. Since February, Mr. Garcia has remained compliant with all of his all pretrial release conditions. He has also traveled out of the jurisdiction of the Southern District of Florida, with the Court's permission, without incident. Additionally, this Court removed his

curfew and allowed him to travel within the state of Florida for work purposes, as long as he gave proper notification to pretrial services.

4. Because of the change in circumstances detailed below, Mr. Garcia respectfully requests this Court to remove the GPS monitor.

5. Since 2017 Mr. Garcia has been self-employed. He owns a roofing business, “Supreme Aluminum Florida” in Miami, and he is a general contractor. He oversees fourteen employees. The monitor around his ankle is unsafe and a work hazard. Also, the monitor has randomly started beeping loudly around potential clients, immediately followed by an embarrassing phone call from pretrial services asking for his exact location.

6. Counsel contacted AUSA A. Buckner for the Government’s position. She stated the Government and pretrial services oppose this motion.

#### **MEMORANDUM OF LAW**

Under 18 U.S.C. § 3142(c)(3), the Court “may at any time amend the order to impose additional or different conditions of release.” The party requesting modification must “establish that new information exists that was not known to him or her at the time of the initial detention hearing, and that this new information is material to his or her release conditions regarding flight or dangerousness.” *United States v. Wei Seng Phua*, 2015 WL 127715, at \*1 (D. Nev. Jan. 8, 2015); *see* 18 U.S.C. § 3142(f).

Mr. Garcia submits the change in circumstances is the constant danger the GPS monitor poses for his type of work. The monitor around his ankle is unsafe and a work hazard; he climbs ladders and the GPS monitor often gets stuck on the next ladder step when climbing; one time, he almost fell off the ladder. As mentioned above, the monitor has randomly started beeping loudly around potential clients, immediately followed by an embarrassing phone call from

pretrial services asking for his exact location. Finally, Mr. Garcia has no criminal history, and he is not a flight risk.

**REQUESTED RELIEF**

WHEREFORE, Mr. Garcia respectfully moves this District Court to remove the GPS condition. And Mr. Garcia requests a hearing on this motion.

Respectfully submitted,

/s/Aubrey Webb  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was efiled to the Office of the Clerk, United States District Court, District of Columbia, 333 Constitution Ave., N.W. Washington D.C. 20001, Room 1225 and to the Office of the United States Attorney, 555 4<sup>th</sup> St N.W., Washington D.C. 20530, on September 1, 2021.

/s/Aubrey Webb