

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No: 21-CR-403 (RC)
	:	
NICOLE PRADO,	:	
Defendant.	:	

MOTION TO CLARIFY JUDGMENT ORDER

Comes Now, Nicole Prado, by counsel, and respectfully moves this Court to issue an Order clarifying that the date on which Ms. Prado's 60 day curfew requirement began was February 7, 2022. As grounds for this motion, Ms. Prado states the following:

1. On November 22, 2021, Ms. Prado pleaded guilty to one count of Parading, Demonstrating, or Picketing in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(G) in the above-captioned case.

2. On February 7, 2022, this Court sentenced Ms. Prado to a term of probation for 12 months probation. The Court further ordered Ms. Prado, as conditions of her probation, to comply with a 60 day curfew from 7pm to 7am, to complete 60 hours of community service, and to pay restitution and a fine.

3. On February 7, 2022, shortly after her sentencing hearing, Ms. Prado signed and returned her written conditions of probation to the PSR writer. The same day, she began complying with the terms of her probation, including the curfew requirement. *See* Declaration of Nicole Prado Pursuant to 28 U.S.C. §1746 (hereinafter "Prado Declaration").

4. On February 13, 2022, the Court issued its written Judgment and Commitment Order. *See* docket entry 47. Page four of the Judgment Order, entitled “Special Conditions of Supervision” states in relevant part:

“you shall be monitored by Radio Frequency or GPS monitoring (at the discretion of the Probation Office supervising your Probation) and shall abide by all technology requirements for a period of 60 Days with a curfew from 7:00 pm to 7:00 a.m. (from the date of sentencing).”

5. The quoted language from the Court’s Order is consistent with 18 U.S.C. § 3564(a), which directs that “[a] term of probation commences on the day that the sentence of probation is imposed, unless otherwise ordered by the court.”
6. Through no fault of Ms. Prado’s, the office of probation did not install the GPS monitoring device until February 15, 2022. Nevertheless, Ms. Prado has zealously complied with her 7 p.m. to 7 a.m. curfew requirement since this Court sentenced her on February 7, 2022. *See* Prado Declaration.
7. Ms. Prado is being supervised by the Probation Office in the Southern District of Florida. Undersigned counsel has spoken to her probation officer, Lucien Michel. Mr. Michel has advised counsel that the Probation Office in the Southern District of Florida has interpreted the Court’s Order to mean that Ms. Prado’s curfew requirement should begin on the date that probation installed the GPS monitoring device, instead of from the date of Ms. Prado’s sentencing.
8. Because probation’s interpretation of the curfew requirement’s timing conflicts with the Court’s intention — as expressed verbally at Ms. Prado’s sentencing hearing and as written in its Judgment Order — Ms. Prado asks the Court to issue an Order clarifying that the

clock for Mr. Prado's 60 day curfew requirement began on February 7, 2022 (the date of her sentencing).

9. This Court retains the authority to properly clarify an ambiguity in its Judgment Order.

United States v. Spallone, 399 F.3d 415, 421 (2d Cir. 2005) (where an order or judgment is unclear, a court retains inherent authority to interpret ambiguities); *see also SEC v. Hermil, Inc.*, 838 F.2d 1151, 1153 (11th Cir. 1988) ("Included in a district court's power to administer its decrees is the power to construe and interpret the language of the original order.").

10. Counsel for Ms. Prado has consulted with the government regarding this motion for clarification. They take no position on the motion.

WHEREFORE, Ms. Prado respectfully asks this Court to issue an Order clarifying that Ms. Prado's curfew condition in the Judgment Order shall begin to run from February 7, 2022.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of March, 2022, I will electronically file the foregoing Motion to Continue with the Clerk of Court using the CM/ECF system, which will then send a notification of said filing (NEF) to counsel of record.

_____/s/_____
Joan Robin