

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

UNITED STATES *
vs. * Case No.: 21-CR-28-APM
THOMAS E. CALDWELL *

* * * * *

**DEFENDANT CALDWELL’S REPLY TO GOVERNMENT’S OPPOSITION TO
REQUEST TO MODIFY CONDITIONS OF RELEASE**

COMES NOW the Defendant, Thomas E. Caldwell, by and through undersigned counsel, and replies to the Government’s opposition to Caldwell’s request to modify his conditions of release as follows:

- 1) Caldwell has demonstrated, through nine months of perfect performance on supervised release, that the Court can trust him to abide by relaxed conditions of release.
- 2) Caldwell has made more than 70 approved trips outside of his property without committing an act of violence, breaking the law, or violating other conditions of release.
- 3) Caldwell has refrained from using a computer for nine months. However, undersigned counsel needs Caldwell to do independent internet research as to various aspects of the instant case in order to further his defense. Additionally, Caldwell is a *pro se* defendant in a pending civil suit, which likewise necessitates Caldwell’s use of the internet and computers to defend himself by doing research, communicating with undersigned counsel, and communicating with plaintiffs’ and co-defendants’ counsel in the civil suit.
- 4) The Court should note that discovery has revealed that Caldwell was not a party to the Oath Keepers’ J6 “Leadership Chat,” an encrypted set of communications about the J6 “operation” that is central to the Government’s case. Accordingly, Caldwell’s use of

computers and the internet does not raise the same set of concerns that may pertain to his co-defendants.

- 5) Caldwell has no firearms in his possession or control. Years prior to his arrest, Caldwell obtained a valid Virginia concealed carry permit, which is very common among older residents in rural America, where the nearest police officer may be an hour away when 911 is called. The purchase of a firearm designed to look like a cell phone referenced by the Government was never consummated as Caldwell, while incarcerated, instructed his wife to cancel the order and to use the refunded money to pay his prior attorney's fee. This firearm is specifically designed for concealed carry permit holders, and its purpose is to protect law enforcement by preventing unnecessary 911 calls by citizens who are unaccustomed to concealed carry by non-police. It should also be noted that this diminutive firearm is strictly designed as a close-range self-defense weapon.
- 6) Further, undersigned counsel was advised by the Government that Caldwell possessed a .22 caliber rifle at a Virginia hotel. Undersigned counsel has learned from two sources (who are not Caldwell) that the .22 caliber rifle in question was a family heirloom from the 1950s passed down to Caldwell from his recently deceased 94 year-old father, that no ammunition ever accompanied this rifle, and that it was intended as a "show and tell" piece for "PERSON THREE," and not for a "QRF." Contrary to the Government's claim, undersigned counsel is not attempting to "minimize" the .22 caliber rifle. Having owned a .22 caliber rifle as a 13 year-old, undersigned counsel is quite aware that this rifle is a "beginner's gun," is used by the Boy Scouts at camp to teach boys safe firearm handling, and is the least lethal firearm that can be bought in the United States. Allegedly supplying a .22 caliber rifle for a "QRF" is akin to donating a bicycle with training wheels to the Tour de France.

- 7) At a reverse proffer on October 5, 2021 undersigned counsel asked Government counsel whether there was any proof or evidence that Caldwell or his co-defendants devised a plan to specifically attack the Capitol on J6. The Government's answer was "no." Notably, the Court initially detained Caldwell for 53 days largely on this very claim.
- 8) At the reverse proffer, undersigned counsel asked Government counsel to identify the "video" of evidentiary value referenced in Count Nine (evidence tampering) of the indictment that Caldwell allegedly destroyed/unsent. Government counsel indicated that law enforcement did not recover the video and, hence, was unaware of the video's content.
- 9) Mr. and Mrs. Caldwell confirm that for years they have discussed retiring to a warmer climate, including moving to a foreign country in the Caribbean or American Samoa. Mr. Caldwell is in compromised health and his wife survived a serious stroke. This couple's retirement research had absolutely nothing to do with J6. Mr. Caldwell has already surrendered his passport. Mrs. Caldwell, who accompanies the Defendant everywhere he goes, is willing to surrender her passport as well.
- 10) Finally, per a recent communication with the Government, it is apparent that Caldwell is not a candidate for the first trial group in April.

WHEREFORE, the Defendant respectfully requests that the Court modify the Defendant's conditions of release as previously requested.

/s/
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