UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	**Case No. 21-CR-40-TNM-4**
	:	
CHRISTOPHER QUAGLIN,	:	
	:	
Defendants.	:	

RESPONSE TO DEFENDANT'S THIRD MOTION FOR PRE-TRIAL RELEASE

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby respectfully responds to defendant Christopher Quaglin's third motion for immediate pre-trial release and accompanying "supplements" to that motion, ECF No. 519 (February 9, 2023); ECF No. 531 (February 21, 2023) ("Supplement"); ECF No. 536 (February 22, 2023) ("Supplement"); and ECF No. 540 (February 23, 2023) ("Supplement").[1] For the reasons explained below, the Court should deny this motion.

Under 18 U.S.C. § 3142(i), there is "a distinct mechanism for temporarily releasing a detained defendant, in a manner that has nothing to do with a revisiting of the initial detention determination." *United States v. Lee*, 451 F. Supp. 3d 1, 5 (D.D.C. 2020). The burden of justifying temporary release under § 3142(i) lies with the defendant. *Id.* Under subsection (i), a defendant otherwise subject to pretrial detention may be granted temporary release by showing both (1) that he would be released to "the custody of a United States marshal or another appropriate person," and (2) that the temporary release is "necessary for preparation of the person's defense or for another compelling reason." *See also Lee*, 451 F. Supp. 3d at 5. To determine whether temporary

[1] Quaglin purports to "incorporate" his previous related filings set forth in ECF Nos. 419, 495, 497, 499, and 501. *See* ECF No. 519. However, as defense acknowledges, when Quaglin moved facilities, arguments raised in those motions became moot.

release is "necessary" or whether "another compelling reason" exists, courts "must be mindful of the factors set out in 18 U.S.C. § 3142(g)." *United States v. Thorn*, No. 1:18-cr-389 (BAH), 2020 WL 1984262, at *2 (D.D.C. Apr. 27, 2020).

Temporary release under § 3142(i) is granted only "sparingly" and in extraordinary circumstances, such as where a defendant is "suffering from a terminal illness or serious injuries." *Lee*, 451 F. Supp. 3d at 5-6.

A. Defendant Has Not Demonstrated That Temporary Release Is "Necessary For The Preparation Of His Defense"

In this latest round of briefing seeking relief, the defendant makes varying general assertions about his lack of discovery and inability to prepare for trial. For example, Quaglin argues that, at the D.C. Jail, he is "being denied access to his attorneys," ECF No. 536, and his attorneys were not able to leave an external drive with Quaglin at the last visit, *id.* at 1-2. Yet in Quaglin's motion, he acknowledges that, once he got to the D.C. Jail, he was provided an electronic tablet and that he was provided a form to sign that would allow him to gain access to certain discovery databases. *Id.* at 2. Thus, although he has not viewed the discovery at the pace which he prefers – yet – he has not demonstrated an inability to view discovery, nor has he demonstrated that the conditions of the D.C. Jail are such that temporary release is *necessary* for the preparation of his defense. In fact, consistent with Quaglin's experience so far, the D.C. Jail has a comprehensive discovery system available for defendants, which includes access to January 6-specific discovery tools that permit inmates, like Quaglin, to review electronic evidence. The resources available to Quaglin (and other defendants at the D.C. Jail) are well-within acceptable norms and fall far short of necessitating temporary release. Additionally, although Quaglin asserts that his attorney was not permitted to leave discovery at the jail, the government has confirmed that inmates, Quaglin included, are permitted to receive discovery

from their attorneys. So long as the established process is followed, there is no barrier to Quaglin receiving discovery from his attorneys.

Therefore, because Quaglin has not made an adequate showing that his release is "necessary" for the preparation of his defense, the Court should deny his request for temporary relief.

B. Defendant Has Not Demonstrated A "Compelling Reason" For Temporary Release

Quaglin also seeks temporary release based on a number of addition reasons, none of which constitute a "compelling" reason to justify temporary release. For example, Quaglin spends much time complaining about past failures of the D.C. Jail, where he is presently housed. ECF No. 519 at 2-4. Specifically, Quaglin complains that the jail has historically had "systemic failures," various officers at the jail have been involved in criminal schemes, and guards at the jail have mistreated defendants in the past. *Id.* "Based on this alone," Quaglin argues that he should be immediately released from custody. *Id.* at 3. Quaglin raises other general complaints about the condition or rules of the jail, such as the amount of hours he is locked down, that no phone calls are permitted on the weekend, and that he's not provided with shower shoes. *Id.* at 4. Additionally, Quaglin contends that the jail has not responded to grievances regarding his gluten-free diet. *Id.* at 5. Finally, Quaglin argues that "the sheer length" of his pretrial detention is "a per se violation of Mr. Quaglin's due process rights." *Id.*

Respectfully, none of these complaints meet the high standard for pretrial release. As an initial matter, temporary release is not necessary because of past failures of the jail. Quaglin's complaints are based on an account of things that he alleges to have experienced or heard of. For example, he argues that a certain staff person at the D.C. Jail was once accused of "heinous crimes and abuses." *Id.* at 3. But then Quaglin acknowledges that that particular staff no longer

works at the jail as of January 30, 2023. Quaglin also highlights that other D.C. Jail corrections officers have been arrested in the past for crimes such as accepting money to bring weapons and drugs to inmates. *Id.* But Quaglin has not so much as attempted to demonstrate that these past failures justify the current relief that he seeks. In fact, he acknowledges that the bad actors were arrested. Indeed, Quaglin cites no authority that suggests pretrial release is proper because of such issues, nor does he argue that these past failures impact him currently. Moreover, the remedy for such jail conditions and personnel issues at a particular jail, if any, would likely be that Mr. Quaglin is transferred to a new facility—not that he is given pretrial release.

Finally, the length of Quaglin's detention does not violate his due process rights. *See United States v. Dupree*, 833 F. Supp. 2d 241, 251-52 (E.D.N.Y. 2011) (holding "the length of detention . . . does not in and of itself offense due process") (citing cases). Quaglin is detained based upon an analysis of statutory factors set forth in 18 U.S.C. § 3142(g), which justify his detention and none of those circumstances have changed.

C. Quaglin Was Transferred To The D.C. Jail Because He Harassed Medical Staff At The Rappahannock Regional Jail

Defendant Quaglin has complained that, because he has been moved from certain facilitates "without warning," his prior motions for temporary relief have become moot. ECF No. 519. Before being placed at the D.C. Jail, Quaglin was housed at the Rappahannock Regional Jail. The government inquired as to the reason that Quaglin was transferred back to the D.C. Jail, and was informed by the U.S. Marshal Service that Quaglin had been harassing medical staff. At that point, the Rappahannock Regional Jail determined that they would no longer house Quaglin and, thus, the Deputy U.S. Marshal found different accommodations at the D.C. Jail.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On this 24th day of February 2023, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

/s/ Ashley Akers
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