

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

**UNITED STATES OF AMERICA**

**v.**

**EDUARDO NICOLAS  
ALVEAR GONZALEZ**

)  
)  
)  
)  
)  
)

**No. 1:21-cr-115 (CRC)**

**GOVERNMENT’S MEMORANDUM IN OPPOSITION  
TO DEFENDANT’S MOTION FOR RELEASE FROM CUSTODY**

Defendant Eduardo Nicholas Alvear Gonzalez is a flight risk. He fled and hid from law enforcement after January 6, and now he allegedly moved across the country without any approvals from U.S. Probation. Indeed, despite his probation officer’s repeated commands to return to California, Gonzalez refused, telling the officer that *she* was in violation of the rules. He should remain detained pending a probation violation hearing.

Gonzalez pled guilty on September 30, 2021, to one count of 40 U.S.C. § 5104(e)(2)(G), for his conduct inside the United States Capitol on January 6, 2021. On March 3, 2022, the Court sentenced Gonzalez to 24 months’ probation and instructed him to follow a variety of conditions. ECF 52. On April 27, 2023, Probation petitioned the Court for an arrest warrant based on Gonzalez’s alleged violations of his probation conditions, including unlawful use of a controlled substance (marijuana) and his unilateral, unapproved relocation from California to Tennessee. ECF 57. On April 28, 2023, the Court issued an arrest warrant for Gonzalez. Gonzalez was arrested in Tennessee on May 5, and he waived his identity hearing, preliminary hearing, and detention hearing there, opting for those hearings to be held in the District of Columbia. ECF 60 at 5-6.

“Rule 32.1(a)(6) governs release pending a hearing on a violation of probation or supervised release.” Fed. R. Crim. P. 46(d). Pursuant to Rule 32.1(a)(6), the Court “may release

or detain the person under 18 U.S.C. § 3143(a)(1) pending further proceedings.” “The burden of establishing by clear and convincing evidence that the person will not flee . . . rests with the person.” Fed. R. Crim. P. 32.1(a)(6). Gonzalez has not, and cannot, satisfy that burden.

*First*, Gonzalez’s underlying conduct illustrates his lack of regard for the law. He stormed inside the Capitol on January 6 to, in his words, “tak[e] his country back.” ECF 41 at 7. Despite seeing multiple law enforcement officers equipped with riot gear guarding the Capitol, he barged past them and warned that they “did the right thing” by standing down. *Id.* Inside the Capitol, he smoked and distributed marijuana. *Id.* at 7-8. Afterward, he glorified his and others’ conduct by maintaining an internet presence under the moniker, “Brotunda,” and described other January 6 defendants as “political prisoners.” *Id.* at 12-13.<sup>1</sup>

*Second*, Gonzalez has already shown this Court he is willing to flee from the law. After January 6, he canceled his return flight to California; shut down his cell phone; hid in a friend’s Virginia Beach apartment; and detailed in a livestream his “escape route” and “bolt hole.” ECF 41 at 9-10. In the Court’s words at sentencing, “you evaded law enforcement. You tried to hide in a closet. You told your buddy to make up a cover story, and you identified other people that could harbor you in the event, if necessary.” 3/3/22 Tr. at 27.

*Third*, the Court stressed at sentencing the importance of keeping Gonzalez under Court supervision as part of his punishment. Although the Court considered whether Gonzalez’s actions deserved “a little extra jail time to convince [him] that this was a really serious event,” the Court ultimately sentenced Gonzalez to 24 months’ probation precisely to keep him “under this Court’s jurisdiction.” 3/3/22 at 29. In other words, the Court was aware at sentencing that Gonzalez

---

<sup>1</sup> The government also relies on the factual recitation detailed in its sentencing memo. ECF 41 at 1-14.

warranted close supervision. Given the nature of his conduct, and the opportunity afforded to him, it should follow that the Court should respectfully have little tolerance for any future violations.

*Fourth*, despite the chance the Court granted him at sentencing, Gonzalez has now taken matters into own hands again. According to his probation officer, he sought and received permission to travel from California to Nashville, Tennessee for the limited time period of February 22 to March 22, 2023, and for the limited purpose of his employment. ECF 57 at 5. By April 27, when probation petitioned the Court for a warrant, Gonzalez had still not returned to California. In fact, Gonzalez had already applied for, got approved for, and signed for a new apartment lease in Nashville—all without going through Probation. It is clear Gonzalez had no intention of returning to California as required. And he still does not. Despite multiple commands from probation to return, Gonzalez has repeatedly refused. He was finally arrested in Tennessee on May 5—over six weeks after he was required to return to California.

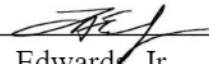
It is of no moment that probation may have generally known that Gonzalez was in Nashville. ECF 62 at 1. Gonzalez relocated himself across the country, without any input from Probation, effectively rendering supervision impossible. According to the standard conditions of Gonzalez’s probation, he “must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission” and “must live at a place approved by the probation officer.” ECF 52 at 3. Indeed, to change where he lives, he “must notify the probation officer at least 10 days before the change.” These conditions are fundamental to probation’s ability to successfully supervise a defendant’s compliance with the Court’s rules, and he followed none of them. Relatedly, he has tested positive for additional drug use despite the Court’s explicit warning at sentencing, *see* 3/3/22 Tr. at 30-31, and his mandatory conditions of probation, *see* ECF

52 at 2. Gonzalez is operating on his own terms, flouting his sentence and the opportunity to reform.

Gonzalez has not shown by clear and convincing evidence that he does not present a risk of flight, and the government respectfully requests that the Court detain Gonzalez pending a hearing on his alleged probation violations.

Respectfully submitted,

MATTHEW M. GRAVES  
UNITED STATES ATTORNEY  
D.C. Bar Number 481052

By:   
Troy A. Edwards, Jr.  
Assistant United States Attorney  
N.Y. Bar No. 5453741  
U.S. Attorney's Office,  
District of Columbia  
601 D Street NW  
Washington, D.C. 20530

Dated: May 22, 2023