

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

**UNITED STATES OF AMERICA**

**v.**

**BRUNO JOSEPH CUA**

**Criminal Action No. 21-00107 (RDM)**

**REPLY BRIEF IN SUPPORT OF MOTION TO MODIFY CONDITIONS OF RELEASE**

Defendant Bruno Joseph Cua, by and through his attorneys, pursuant to Federal Rule of Criminal Procedure 46 and 18 U.S.C. §§ 3142(c)(3) and 3145(a)(2), files this reply brief in support of his motion for an order clarifying and/or modifying the terms and conditions of Mr. Cua's pretrial release to (1) confirm that Mr. Cua may travel to obtain materials and supplies for his work without being accompanied by this third-party custodian; and (2) remove the requirement that he submit to location monitoring by Pretrial Services.<sup>1</sup> ECF No. 77 ("Mot.").

With respect to the first request, the government has now confirmed that it does not oppose Mr. Cua being permitted to travel to obtain materials and supplies for work without being accompanied by this third-party custodian. ECF No. 83 ("Opp.") at 1. If the Court agrees, Mr. Cua respectfully asks that it enter an order on that clarification/modification. *See* ECF No. 77-1 (proposed order regarding travel for materials and supplies).

With respect to Mr. Cua's second request regarding location monitoring, the government persists in its attempt to inaccurately portray this now nineteen-year-old as a menace. Mr. Cua has now flawlessly complied with his onerous release conditions for more than eight months.

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<sup>1</sup> The Court previously set a deadline of November 15, 2021, for Mr. Cua's reply brief. However, the government filed its opposition brief on November 15, 2021, after its original deadline of November 10, *see* ECF No. 83. Mr. Cua is filing his reply brief as soon as practicable.

The issue is whether location monitoring is appropriately part of the least restrictive conditions necessary to reasonably assure the safety of the community from Mr. Cua, a teenager residing at home with his parents under third-party custodianship with no criminal record, no firearms, and no social media. *See* 18 U.S.C. § 1342(c)(1)(B).

The government argues that modifications to conditions of release are generally grounded in “new information or a change in circumstances” and that “there is no new development that would affect this Court’s assessment of the least restrictive’ conditions of release that ‘will reasonably assure . . . the safety of any other person and the community.’” *Opp.* at 3 (internal citations omitted). It also argues that a defendant’s compliance with conditions of release is not enough to warrant a modification. *Id.* at 2 (citing *United States v. Henry*, 314 F. Supp. 3d 130, 133 (D.D.C. 2018)). The point the Court in *Henry* was actually making, however, was that compliance in *that defendant’s case* was “not enough to warrant adjustment of *her* pretrial release conditions,” *id.* at 133 (emphasis added), not that compliance with conditions is never enough for any defendant.<sup>2</sup>

More recently, in *United States v. Brock*, No. 21-140 (JDB), 2021 WL 3616892 (D.D.C. Aug. 16, 2021), a case also involving events at the Capitol on January 6, 2021, the Court made clear that it was “not required to find changed circumstances.” *Id.* at \*3. In granting a motion to remove GPS monitoring, the Court noted that “Brock has fully complied with his release conditions to date, and his PSA agent—who has worked closely with him for over six months

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<sup>2</sup> The Court in *Henry* went on to explain its ongoing concerns that the requested modification (from halfway house to high-intensity supervision) “would create opportunities for her to re-start her alleged narcotics business” through the use of her apartment and unmonitored internet access, noting that “[m]onitoring via ankle bracelet would not detect such a business.” *Id.* In other words, the Court in *Henry* simply was not convinced, despite her compliance, that she would not re-engage in criminal activity.

now—no longer believes that location monitoring is necessary to ensure compliance moving forward.” *Id.* That is precisely the case here, except Mr. Cua has an even longer record of flawless compliance.

Even if new information was required, there is quite a bit of it available. During the time since he was released, Mr. Cua has rejoined his family, residing with his parents and two siblings. He has graduated from high school. He has been working regularly outside his family’s home. Both his third-party custodian and numerous employers have filed weekly declarations attesting that Mr. Cua has complied with his conditions of release. He has ignored social media and politics in general. Perhaps most importantly, the Court now has the benefit of the positive input from his pretrial officer, the Court officer who interacts with him the most and who has supervised him from the very beginning of his release. She does not oppose removal of his ankle bracelet, stating that Pretrial Services can adequately monitor his compliance with his other conditions of release without it. Mot. at 7-8 ¶ 18. *See Brock*, 2021 WL 3616892, at \*3. The government argues that “[c]ontinued GPS monitoring allows the PSA to assess compliance with important conditions of release, such as remaining within the Northern District of Georgia and staying out of the District of Columbia,” but Pretrial Services itself flatly disagrees that such monitoring is necessary for that goal.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Aside from providing a better picture of who Bruno Cua really is, [REDACTED] also reflects a better understanding of the reasons Mr. Cua and his parents went to Washington, D.C., on January 6, 2021. While Mr. Cua has expressed his deep remorse to the Court about the social media activity highlighted by the government, *see, e.g.*, ECF No. 25 at 13-14, the information and analysis [REDACTED] helps place those posts in their broader context. First, the posts the government has featured, while admittedly disturbing, were picked out of a

much larger pool of posts, including many depicting more mundane interests (trucks, ATVs, and treehouses) and one very important interest—the 800-square-foot “World Record Trump Flag” for which Bruno had designed and constructed a collapsible flagpole in the bed of his truck capable of flying such a massive flag on a moving truck—a remarkable engineering feat for an adolescent in and of itself. *See* Ex. 1 at 10-11 & n.7.

Second, without minimizing Mr. Cua’s social media posts, they should be viewed in the context of his overarching goal—to develop a large social media following in the hopes of monetizing his accounts, including on YouTube. Mr. Cua’s interest in developing a robust social media following is not uncommon among young people these days. *See id.* at 10. While admittedly sharing the beliefs with a large swath of Americans at the time that the 2020 election was “stolen” or fraudulent, this desire to gain attention and followers on social media was one reason Mr. Cua used such provocative political posts, many of which were copied and reposted from others. *See id.* at 12. The large, one-of-a-kind flag was another strategy for gaining followers, one more prominently featured on his social media than the posts highlighted by the government—[REDACTED], the flag “was a huge part of my life online.” That is why Mr. Cua included his social media “handles” on his truck,<sup>3</sup> *see* ECF No. 12-1 at 11—people would see the flag on the truck and follow his social media accounts. For instance, after garnering some attention at local rallies, Mr. Cua asked his parents to go to the “million MAGA march” in November 2020 to fly the flag. *See* Ex. 1 at 11. Traveling with his father and parking in a centrally located lot, Bruno “relished the attention his truck received,” causing his flag to go “viral” on social media. *Id.*

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<sup>3</sup> As social media handle is a person’s username, which on social media “is a way for people to identify you and communicate with you.” *See* <https://www.smartinsights.com/social-media-marketing/exact-match-social-media-handles/>.

With this initial success in November 2020, Mr. Cua asked his parents to return to Washington to fly his flag again to hopefully gain even more attention. Although a small portion of Mr. Cua's social media posts are disturbing, gaining social media attention for his flag was Mr. Cua's primary, overarching motivation for returning to D.C. This primary focus on the flag is corroborated by extensive work Mr. Cua did to modify the truck and flagpole prior to the trip, the fact that the family drove a large, noisy truck with low gas mileage to D.C. instead of another more efficient vehicle, and the family's multiple attempts (over about 2.5 hours) in the early morning of January 6 to park his truck in the same or similar central location where he had parked in November (attempts that ultimately failed due to the heightened security). *See id.* at 13. Moreover, unlike many who arrived in Washington with body armor and plans to meet up with others, Mr. Cua took no steps to prepare for violent confrontations. The government points to Mr. Cua's baton—which he never used—but it is implausible that his father gave him the baton that morning (a self-defense weapon he put in the family's cars) to assist his 140-pound son to participate in an assault on the Capitol. So, while some of Mr. Cua's social media messages appear to foretell his alleged actions at the Capitol, it was not his motivation for going to Washington. Despite those messages, Mr. Cua's entry into the Capitol in fact reflects impulsiveness, rather than pre-planning; immaturity, rather than thoughtfulness; and being swept up in the crowd, not independent thinking.

Ultimately, however, the issue is whether location monitoring continues to be a necessary part of the least restrictive means to ensure the ongoing safety of the community. On this issue, the government fails to rebut Mr. Cua's strong record of compliance with the Court's conditions. Its only argument for keeping the ankle monitor is to ensure compliance with other conditions, but the only conditions it cites are the requirements that Mr. Cua remain within the Northern

District of Georgia and stay out of the District of Columbia. Opp. at 3. The government essentially concedes that the ankle monitor is of minimal value in ensuring safety within the Northern District of Georgia, which encompasses forty-six counties and 14,258 square miles.<sup>4</sup> If the government were truly concerned about Mr. Cua's dangerousness, it would have opposed expanding his movement throughout such a large geographic area.

Wherefore, for the foregoing reasons and those stated in his motion, Mr. Cua respectfully requests that the Court enter the orders provided with his motion modifying the Order Setting Conditions of Release, subject to the other conditions of release and continuing supervision of Pretrial Services.

Respectfully submitted,

DATED: November 19, 2021

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<sup>4</sup> See <http://www.gand.uscourts.gov/court-information>.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of November, 2021, I filed the foregoing with the Clerk of the United States District Court for the District of Columbia by using the CM/ECF system, which system I understand has provided electronic notice counsel of record.

Dated: November 19, 2021

/s/ William E. Zapf  
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