

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
v.)	
)	No. 21-cr-248-01 (RDM)
AARON MILEUR)	
)	
Defendant.)	
_____)	

**REPLY TO THE GOVERNMENT'S OPPOSITION TO MOTION TO MODIFY
CONDITIONS OF PROBATION**

Aaron Mileur hereby respectfully replies to the government's opposition to his Motion to permit him to possess, at home, a firearm, in order to protect himself and his property from parts of the moose population near his home in Wasilla, Alaska.

In short, the government's opposition boils down to a reassurance that moose are unaggressive and nonthreatening, that Mr. Mileur lives in a relatively densely populated area with few moose; and that even aggressive moose need not be shot. To begin, Mr. Mileur does not wish to shoot and kill moose – he too is fond of moose and is thus requesting the ability to “fend off moose,” which hopefully would require only warning shots. ECF 101 at 1. Second, despite the government's comforting anecdotes of moose frolicking peacefully around the courthouse, Mr. Mileur, like so many other Alaska residents, is entitled to be prepared for the worst sort of moose. He maintains this right even though he is on probation for a misdemeanor offense because a firearms ban, in this case, would not be reasonably related to a factor

under 18 U.S.C. 3553. The government has not demonstrated any such rational nexus to one of the sentencing factors¹ and Mr. Mileur's motion should thus be granted.

I. Wasilla is small and rural.

The government argues that the presence of retail outlets such as Target and Lowe's and even lesser known businesses such as Fred Meyer's superstore and a Carr's grocery store demonstrate that Mr. Mileur lives in "one of the more densely populated and thriving parts of the state." ECF 108 at 2. Putting aside the inherent relativism built into the government's argument, the opposition describes Mr. Mileur's neighborhood as "suburban" and only four miles outside of Wasilla. To place things in context, Wasilla reports a population of 7,831 people.

https://datacommons.org/place/geoId/0283080?utm_medium=explore&mprop=count&popt=Person&hl=en. Even setting aside biases about the number of people that define cities and their suburbs, it is difficult to endorse the characterization of "densely populated" to a suburb of a metropolis of fewer than 8,000 residents.

More to the point, Wasilla has moose and has long had a problem with moose, including a moose walking loitering inside the very Carr's grocery store cited in the government's pleading. <https://www.youtube.com/watch?v=L45lol44dOc>.

Mr. Mileur's home itself is not in a populous area. A Google map image demonstrates that Mr. Mileur's residence is far from bustling and corroborates Mr. Mileur's assertion that moose commonly come on to his property.

¹ Given the history and characteristics of Mr. Mileur, as found by the Court at his sentencing hearing, the record is devoid of any evidence supporting such a restriction.



II. Moose can be dangerous.

Although counsel has no doubt that many moose present little to no danger, it is undisputable that some moose are very dangerous. For example, Colorado has recently seen an increase of moose attacks and have warned its citizens to be cautious in areas that have a substantial moose population.

https://denvergazette.com/news/environment/as-colorado-sees-3-moose-attacks-this-year-officials-urge-caution-in-next-3-4/article_72926afa-e8dc-11ec-8583-1f20d0e2b749.html

Notably, the Colorado Parks and Wildlife Agency warns individuals that if moose are being aggressive or begins to charge, “run as fast as you can and try to put a large object between you, such as a boulder, car, or tree and the animal.” *Id.* In counsel’s estimation, Mr. Mileur’s maximum speed would do him little good in the face of a charging moose.²

² Moose attacks where the moose is the clear initial aggressor are far from uncommon. See e.g. https://www.gjsentinel.com/news/western_colorado/moose-attacks-woman-near-glenwood-

Even a Canadian travel website deems moose “easily one of the topmost dangerous animals in Canada.” <https://backcountrycanadatravel.com/canadian-wilderness-dangers/> (ranking moose more dangerous than wolverines, venomous snakes and poisonous spiders). And some moose have been known to tree human beings and await their descent into vulnerability.

<https://www.miamiherald.com/news/nation-world/world/article270827432.html>.

Counsel is in no position to contest the government’s assertion that most moose are good moose and do not pose a threat to human beings. Counsel acknowledges that even an “aggressive” moose that attacks is sure to have redeemable qualities deserving of empathy. But history has repeatedly demonstrated that all moose are not always “passive [and] quiet” and Mr. Mileur is entitled to defend himself and his property against the moose that is having a bad day.

III. A blanket firearm restriction is not “reasonably related” to the 3553 factors.

While this Court is entitled to restrict a defendant’s possession of firearms, the relevant statute limits the situations for which it may do so. Specifically, the firearms restriction is a “discretionary condition” that may be imposed when such a condition is “reasonably related to the factors set forth in 3553(a)(1) and (a)(2) and to the extent that such condition[] involve only deprivations of liberty and property as are reasonably necessary for the purposes indicated in section 3553(a)(2)....” 18

[springs/article_2b9d4eaa-005a-11ec-b653-53ca56c24613.html](https://www.miamiherald.com/news/nation-world/world/article270827432.html); <https://www.kktv.com/2022/06/09/moose-attacks-hikers-dog-colorado/>; <https://www.idahostatesman.com/news/nation-world/world/article270827432.html>;

U.S.C. §3563. Here, the government does not relate the firearms restriction to any of the 3553 factors, but vaguely alludes to a generalized concern of probation officer safety. But probation officers are often asked to supervise misdemeanants who have retained their constitutional right to possess a firearm and the government points to no authority that endorses a *per se* application of conditions prohibiting the possession of firearms.

Nevertheless, to address any potential government and probation office concerns, Mr. Mileur would agree to keep his firearm safely secured in his household unless he or his property is threatened by moose. To the extent that the probation officer may rationally be concerned about her safety, this requirement should address those concerns. Any additional restriction would be unduly burdensome and would not relate to the 3553 factors for Mr. Mileur.

Conclusion

Mr. Mileur thus respectfully requests that the conditions of his probation be modified so that he may defend himself and his property against potential moose on his property.

Respectfully submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

_____/s/
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