

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

DANIEL JAY HERENDEEN,

Criminal Case No. 21-278(BAH)

Hon. Beryl A. Howell

EMERGENCY MOTION TO DELAY SELF-SURRENDER

Daniel Herendeen, through counsel Colleen P. Fitzharris, moves on an emergency basis to delay his self-surrender to the St. Clair County Jail.

Mr. Herendeen pleaded guilty to Entering and Remaining in a Restricted Building or Grounds, 18 U.S.C. § 1752(a)(1). This Court sentenced him to 36 months' probation. Dkt. 87, Judgment. This Court imposed as a special condition that he serve 14 days of intermittent confinement, which "shall be served in two periods of 7 days each within the defendant's first year of Probation, at a facility designated by the Bureau of Prisons."

More than a year has passed since Mr. Herendeen began probation. During that time, he has continued to work and support his children. He has not violated any conditions of supervision and has been in regular contact with his probation officer.

The supervising Probation Department in the Eastern District of Michigan made numerous attempts to determine when and where Mr. Herendeen must serve the periods of intermittent confinement. The BOP provided no response until he was given short notice in April to report to the St. Clair County Jail in Michigan to serve the first half of his 14-day period of incarceration. After this Court granted his emergency motion to extend the report date, Mr. Herendeen reported as directed and served seven days in jail.

After serving the first half of the custodial sentence, Mr. Herendeen returned to work in Tennessee, where he is working as a member of Union Millwright Local 1554. The BOP directed him to report again to the St. Clair County Jail on June 16, 2023, to serve the second half of the sentence. Mr. Herendeen bought a plane ticket to return to Michigan and arranged to take unpaid leave so he could complete the sentence.

On June 16, Mr. Herendeen's flight was delayed numerous times. After landing, a friend drove him directly to the jail, which is approximately an hour and a half from the airport. Nonetheless, the St. Clair County Jail turned him away.

On Saturday, June 17, 2023, Mr. Herendeen again reported to the St. Clair County Jail. He was told by staff that he could not serve his sentence because the BOP had not sent the necessary paperwork to accept him.

Mr. Herendeen and his probation officer could not reach anyone at the BOP until Tuesday, June 20, due to the federal holiday. Mr. Herendeen returned to work in Tennessee. Nonetheless, the BOP instructed Mr. Herendeen to return to Michigan again by June 23, 2023, to serve the remainder of his custodial sentence. Undersigned

counsel spoke with the probation officer who confirmed that the BOP acknowledged that they had not submitted the necessary paperwork to the jail. The BOP is unwilling to give Mr. Herendeen additional time to return to Michigan.

Compliance with the BOP's directive to report to the jail by Friday will cause Mr. Herendeen significant hardship. After taking a week of unpaid leave to serve the first seven days of the sentence and paying for flights to and from Michigan, Mr. Herendeen cannot afford to travel to Michigan again with such short notice and lose additional paid days of work.

Mr. Herendeen has demonstrated through his efforts that he is trying to comply with this Court's judgment. He needs adequate notice and time to prepare to leave his work and family for a week so that his absence does not negatively impact his employer or prevent him from finding work in the future. He asks this Court to extend the deadline to report to the jail by 30 days so that he can save money, find coverage at work, return to Michigan, and make necessary arrangements for the care of his children.

Counsel sought the concurrence of the government but has not received a response as of the time of this filing.

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CONCLUSION

Mr. Herendeen respectfully asks this Court to order the BOP to extend the deadline to report to begin the second period of intermittent confinement by 30 days.

Date: June 22, 2023

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
WESTERN DISTRICT OF WASHINGTON
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CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2023, I electronically transmitted the foregoing document to the Clerk of Court using the ECF system for filing and transmittal of Notice of Electronic Filing to the following ECF registrant(s):

Date: June 22, 2023

Respectfully submitted,

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