

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
 vs.) No. 22-mj-88
)
 JOSHUA COLGAN)
)
 Defendant.)

DEFENDANT'S RESPONSE TO PRETRIAL VIOLATION REPORT

Pursuant to the Court's Order of September 28, 2022, Defendant Joshua Colgan responds as follows to the Pretrial Violation Report filed on that date [ECF NO. 21]:

1. In connection with the events of January 6, 2021, Mr. Colgan is charged with Entering and Remaining in a Restricted Building or Grounds (18 U.S.C. § 1752(a)(1)), Disorderly and Disruptive Conduct in a Restricted Building or Grounds (18 U.S.C. § 1752(a)(2)), Disorderly Conduct in a Capitol Building (40 U.S.C § 5104(e)(2)(D)), and Parading, Demonstrating, or Picketing in a Capitol Building (40 U.S.C § 5104(e)(2)(G)). See Information (June 24, 2022) [ECF No. 12]. Mr. Colgan is not accused of participating in any acts of violence or property destruction. See *Statement of Facts* (April 29, 2022) [ECF NO. 1-1].
2. On May 10, 2022, this Court ordered Mr. Colgan released subject to a set of conditions, none of which concerned substance abuse or alcohol. Order Setting Conditions of Release (May 10, 2022) [ECF NO. 8].
3. On May 11, 2022, the Pretrial Services Agency informed the Court and parties that in addition to the conditions imposed by this Court, the Pretrial Services Report filed in the District of Maine had requested that Mr. Colgan be ordered to submit to drug testing, as well as drug and alcohol treatment. The Agency asked this Court to modify Mr. Colgan's release conditions to include these conditions, as well as a ban on the use of any alcohol.
4. Mr. Colgan did not object to the request that his release conditions be modified to include a ban on alcohol. However, Mr. Colgan objected to the imposition of conditions requiring substance abuse therapy and counseling, and drug testing, on the ground that he has no record of drug abuse, and no prior arrests or convictions for drug offenses, and because the government offered no information suggesting that any hypothetical use of illegal drugs by might cause Mr. Colgan to fail to appear as required, or endanger the community. See Defendant's Response to Government's Motion to Modify Conditions of

Release (May 19, 2022) [ECF No. 10]. Nevertheless, the Court granted the request to modify Mr. Colgan's conditions, and ordered that Mr. Colgan use no alcohol, participate in substance abuse therapy and counseling, and submit to drug testing if required by his supervising officer. Order (June 21, 2022) [ECF No. 11].

5. On September 22, 2022, Mr. Colgan's supervising officer, Mike Cook of the United States Probation Office for the District of Maine, telephoned Mr. Colgan to say that he would come to Mr. Colgan's home later that day for a visit. Mr. Colgan assented. Mr. Cook arrived at dinner time, and found that Mr. Colgan had cooked mussels in red wine. Mr. Cook administered a breathalyzer test, which measured Mr. Colgan's blood alcohol content at .22%.
6. Mr. Colgan has always been entirely forthcoming and truthful with his supervising officer. Mr. Colgan suffers from severe anxiety, panic disorder, and insomnia, which medication has been ineffective in treating, and as the Pre-Trial Violation Report states, Mr. Colgan self-reported that he has used marijuana to treat his anxiety.
7. In response these incidents, the Pre-Trial Services Agency recommends that the Court require Mr. Colgan to: "resume substance use treatment, and not use or illegally possess a narcotic drug or other controlled substance defined in 21 U.S.C. 802, unless prescribed by a licensed medical practitioner." Mr. Colgan is currently receiving substance abuse treatment, in accord with this Court's Order of June 21, 2022. In addition, this Court's Order of May 10, 2022, requires that he "not violate federal, state, or local law," which bars him from "us[ing] or illegally possess[ing] a narcotic drug or other controlled substance defined in 21 U.S.C. 802, unless prescribed by a licensed medical practitioner."

For the foregoing reasons, Defendant Joshua Colgan does not object to the recommendations made in the Pre-Trial Violation Report. He does not, however, concede that the conditions recommended in that Report are appropriate, and respectfully reserves the right to seek to modify those conditions if and when appropriate.

Date: September 30, 2022

Respectfully submitted,

/s/ Paul F. Enzinna

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Counsel for Defendant Joshua Colgan

CERTIFICATE OF SERVICE

I certify that on September 30, 2022, a copy of the foregoing Defendant's Response to Pre-Trial Violation Report was filed using the CM/ECF system, which will then send notification of such filing to all counsel of record.

Dated: September 30, 2022

Respectfully submitted,

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