

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

UNITED STATES OF AMERICA : **Case No: 22-cr-299**
:
v. :
:
DONALD CHILCOAT, :
:
Defendant. :

**UNITED STATES’ OPPOSITION
TO DEFENDANT’S MOTION TO MODIFY CONDITIONS OF RELEASE**

The United States, through undersigned counsel, files this response to defendant Donald Chilcoat’s Motion To Modify Conditions Of Release, ECF No. 50.¹ The United States opposes defendant’s motion in part, and respectfully urges the Court to deny the motion relating to the location monitoring. Defendant no longer wishes to submit to location monitoring as part of his pre-trial release conditions and he seeks an extended curfew. These conditions are the least restrictive conditions required to reasonably assure defendant’s appearance at court proceedings and the safety of others and the community. Because the defendant has not raised any novel issues that merit meaningful change of his release conditions, and the current conditions are reasonable in light of his risk of danger to the community and to assure his appearance at court proceedings, the government asks that the conditions of release remain the same or, alternatively, that location monitoring remains in place but defendant’s curfew be extended one hour.

¹ The United States’ response to defendant’s motion was originally due on February 9, 2023. On February 9, 2023, undersigned counsel experienced a technology malfunction and was unable to access the desktop on her computer. As such, undersigned counsel emailed defense counsel on February 9, 2023 from her cell phone, and requested defendant’s consent to seek leave of Court to file our opposition one day late. Defense counsel consented. On February 10, 2023, before undersigned counsel’s desktop access was restored and thus before undersigned counsel could file a motion with the Court, the Court extended the deadline for the government to file its response. Undersigned counsel apologies to the Court for this inconvenience and thanks the Court for permitting additional time to file this response.

A person may file a motion for amendment of conditions of release to the Court having jurisdiction over the offense where the release conditions were set by a Magistrate Judge. *See* 18 U.S.C. § 3145(a)(2). Modifications are generally grounded in new information or a change in circumstances that would merit such a modification. *See, e.g., United States v. Hebron*, No. CRIM.A. 97-178 (TAF), 1997 WL 280568, at *1 (D.D.C. May 22, 1997); *accord United States v. Bikundi*, 73 F. Supp. 3d 51, 54 (D.D.C. 2014) (citing 18 U.S.C. § 3142(f)(2)(B)).

Defendant has not identified new information or a change in circumstances that would warrant removing the condition of location monitoring. The only justifications that the defendant provides to remove the location monitoring condition are that (1) the location monitoring bracelet is uncomfortable and (2) he has been compliant with his current conditions. ECF No. 50 at 2-3. Neither of these reasons warrant removal of the location monitoring condition.

First, defendant request that the Court remove the condition of location monitoring because the location monitoring bracelet is uncomfortable. Defendant acknowledges that two magistrate judges – one in Ohio and one in Washington, D.C. – deemed necessary and imposed conditions of location monitoring and home detention. *See id.* at no. 2 (“Mr. Chilcoat was released in Ohio on conditions of release, including home detention and location monitoring.”); *id.* at no. 3 (“Honorable Robin M. Meriweather [] also placed him on conditions of release, including home detention and location monitoring.”). That the defendant believes the location monitoring bracelet is uncomfortable is not a change of circumstance that warrants removal of this condition altogether. If the bracelet is broken or malfunctioning, it should certainly be fixed, but slight discomfort is not sufficient justification to warrant removal of the condition altogether.

Second, defendant contends that he has been compliant with his conditions since they were last modified in November 2022. Thus, he seeks to again modify the conditions, through lifting the condition of location monitoring and loosening his curfew, because defendant argues that his “full compliance” with release conditions shows that he is not a risk of non-appearance. ECF No. 50 at 3. The Court should not entertain this argument. Although the defendant touts his compliance with his conditions of release as a reason to modify the conditions, “compliance—even model compliance—with the Court’s requirements is not enough to warrant adjustment of [the defendant’s] pretrial release conditions.” *United States v. Henry*, 314 F. Supp. 3d 130, 133 (D.D.C. 2018). Indeed, eliminating a condition because it works as intended is contrary to common sense.

Finally, defendant requests that the Court “expand[] his curfew to provide him greater work flexibility.” ECF No. 50 at 1. Specifically, defense requests that the Court modify his curfew to 10:00 p.m. to 3:30 a.m. Defendant contends that this modification is necessary so that he can take overtime or work on daily jobs that require driving a couple of hours. *Id.* at 3. Respectfully, we oppose the modification of the curfew in the manner suggested by the defendant. The defendant was previously placed on home detention. He sought release from that condition so that he could find employment. The Court granted that request. Now, defendant has confirmed that he has been able to obtain employment while on the present curfew. The additional flexibility that he seeks – 18.5 hours a day in total – is unreasonable. On the status conference with the Court, the defendant asserted that he would prefer to start his work day earlier in the morning and requested that the curfew be extended from 5:00 a.m. to 4:00 a.m. The government does not oppose this adjustment. However, any additional modification is

unwarranted based on the present circumstances, and defendant has not demonstrated that circumstances require such an adjustment.

In sum, the defendant has not raised any novel issue that merits any meaningful change of his release conditions, conditions that are certainly reasonable in light of his conduct and his risk of danger to the community. For that reason and for the reasons listed herein, the government respectfully requests the Court deny the defendant's motion.

Respectfully submitted,

MATTHEW M. GRAVES
UNITED STATES ATTORNEY
D.C. Bar No. 481052

Date: February 14, 2023

By: /s/ Ashley Akers
Ashley Akers
Trial Attorney
MO Bar No. 69601
Detailed to the U.S. Attorney's Office
601 D Street NW
Washington, DC 20001
(202) 353-0521
AshleyAkers@usdoj.gov

CERTIFICATE OF SERVICE

On this 14th day of January, a copy of the foregoing was served on counsel of record for the defendant via the Court's Electronic Filing System.

By: /s/ Ashley Akers
Ashley Akers
Trial Attorney
MO Bar No. 69601
Detailed to the U.S. Attorney's Office
601 D Street NW
Washington, DC 20001
(202) 353-0521
AshleyAkers@usdoj.gov