

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 22-CR-25 (APM)
	:	
KIRSTYN NIEMELA,	:	
	:	
Defendant.	:	

**GOVERNMENT’S RESPONSE TO DEFENDANT NIEMALA’S MOTION
TO MODIFY CONDITIONS OF RELEASE**

The United States responds to the defendant, Kirstyn Niemela’s (“the defendant”) motion (ECF 27) requesting removal of two conditions of release:

- Condition 7(m): defendant must not from use or unlawfully possessing a narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner; and
- Condition 7(n): defendant must submit to testing for a prohibited substance if required by the pretrial services office or supervising officer.

ECF 14 at 2. The United States opposes the defendant’s request.

The Defendant is alleged to have violated 18 U.S.C. § 1752(a)(1) and (2) (Enter and Remaining in any Restricted Building or Grounds and Disorderly and Disruptive Conduct in any Restricted Building or Grounds) and 40 U.S.C. § 5104(e)(2)(D), and (G), (Disorderly Conduct in a Capitol Building and Parading, Demonstrating, or Picketing in any of the Capitol Buildings) for their entry in the United States Capitol Building on January 6, 2021. She was charged by Complaint in 22-mj-13 (GMH) on January 14, 2022, and arrested January 18, 2022. An Information was filed on January 19, 2022, alleging the same violations. ECF 11. The defendant and her codefendant are seen with Michael Eckerman (charged in a separate January 6th case, 21-

cr-623 EGS) on United States Capitol Police surveillance videos and in Instagram posts as depicted and discussed in the Complaint and Statement of Facts in this matter (22-mj-13, ECF 1, 1-1).

Defendant's had a first appearance in New Hampshire on January 18, 2022. The bond report in that District indicated the defendant admitted to using marijuana daily for "years". (DNH PSR, filed under seal). At defendant's arraignment before Judge Harvey on January 21, 2021, orders were entered for the two conditions noted above (ECF 14 at 2). In addition, the defendant's Facebook data received through legal process (and provided to the defense in discovery), has the following exchanges which indicate she possessed and distributed marijuana also:

Author Kirstyn Niemela (Facebook: [REDACTED])
Sent 2020-12-19 20:15:37 UTC
Body If you want to go inside and get my back pack u can weigh it out yourself if your in a rush

Author Kirstyn Niemela (Facebook: [REDACTED])
Sent 2020-12-19 20:16:20 UTC
Body Scale is in back pack on the left side of the room , bud is in my black truck on the seat

Author [REDACTED] (Facebook: [REDACTED])
Sent 2020-12-19 20:16:38 UTC
Body How many grams is a half I'm retarded

Author Kirstyn Niemela (Facebook: [REDACTED])
Sent 2020-12-19 20:16:47 UTC
Body 14.

Author [REDACTED] Facebook: [REDACTED]
Sent 2020-12-30 22:27:24 UTC
Body I got the letter of my case being dismissed today. Do you have weed?

Author Kirstyn Niemela (Facebook: [REDACTED])
Sent 2020-12-30 22:43:11 UTC
Body I do. What do u need

The conditions complained about are tailored specifically to the defendant and her characteristics. Therefore, the United States asks that conditions to refrain from the possession and use of a controlled substance provisions and for drug testing remain in place.

