

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA :

v. :

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DEFENDANT'S MOTION TO AMEND DETENTION ORDER

[REDACTED], Assistant Federal Public Defender and counsel of record for [REDACTED] [REDACTED] [REDACTED], moves the Court to modify its Detention Order of [REDACTED], and permit the Defendant to be temporarily released from the custody of the U. S. Marshal from 5:00 p. m. on Friday, [REDACTED] until 5:00 p. m. on Monday, [REDACTED]. The requested temporary release is so that [REDACTED] may attend the funeral of his older brother, [REDACTED] on Saturday, [REDACTED] at 1:00 p. m., in [REDACTED]

In further support of this motion counsel for [REDACTED] [REDACTED] states the following.

1. On Tuesday, [REDACTED] at approximately 3:30 p. m., undersigned counsel was informed by the Defendant's wife and his sister that [REDACTED], the Defendant's older brother, died in [REDACTED] [REDACTED] [REDACTED] in the early morning hours of [REDACTED]. The cause of death was said to be a brain aneurysm. The death was sudden and unexpected.

2. Funeral arrangements had not been completed as of [REDACTED] [REDACTED] in that plans for shipping the body from [REDACTED]

[REDACTED] had not been finalized. The undersigned informed AUSA [REDACTED] [REDACTED] of this development, and attempted to notify [REDACTED] [REDACTED] supervising probation officer, [REDACTED] by telephone. Counsel told [REDACTED] that undersigned counsel would notify the government of the final funeral arrangements as soon as counsel became aware of them. Counsel also left a message to the same effect on the office voicemail of [REDACTED].

3. On Wednesday, November 21, 2007, at approximately 3:40 p. m. counsel for [REDACTED] was informed that the funeral was to be held on Saturday, November 24, 2007 at 1:00 at [REDACTED]
[REDACTED]
[REDACTED] A wake is scheduled for 12:00 noon on the same day, at the same location.

4. At approximately 3:50 p. m. counsel for [REDACTED] tried unsuccessfully to reach AUSA [REDACTED] to ascertain the government's position concerning this motion. Counsel did, however, speak with AUSA [REDACTED] concerning the matter. On Friday, November 23rd AUSA [REDACTED], who was not previously familiar with [REDACTED]' case, advised that the government did not oppose the proposed amendment to the court's release order.

5. Counsel did not speak with [REDACTED] concerning the instant motion.

6. The arrangement envisioned by the instant motion is in the nature of a 72 hour furlough, wherein the Defendant would be required to travel, at his own expense, from his current place of confinement to [REDACTED], and to return to his place of confinement at a specified time, after having a reasonable time to attend his

brother's funeral and fellowship with his remaining family members.

7. 18 U. S. C. §3142(c)(1)(B)(xiii) specifically authorizes the Court to order that a Defendant be released and returned to custody "for specified hours following release for employment, schooling, or other limited purposes", when such an arrangement poses no reasonable risk of flight or danger to the community. Counsel asserts that the occasion of his brother's death imbues the Defendant's release under these circumstances with a solemnity that renders any previously perceived risk of flight or danger to the community, negligible.

WHEREFORE counsel for the Defendant respectfully requests that the Court enter an order granting the relief requested herein.

This the 22nd day of November, 2007.

[REDACTED]
Federal Public Defender

/s/ [REDACTED]
[REDACTED]
Assistant Federal Public Defender
North Carolina State Bar No. [REDACTED]
301 North Elm Street, Suite 410
Greensboro, NC 27401
Telephone No. (336) 333-5455

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion to Amend Detention Order, on counsel for the government by electronic filing and first class mail, as follows.

[REDACTED]
Assistant U. S. Attorney
Post Office Box 1858
Greensboro, NC 27402

/s/ [REDACTED]
[REDACTED] Jr.
Assistant Federal Public Defender

[REDACTED] [REDACTED] [REDACTED].bk1]