

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

UNITED STATES OF AMERICA : **FILED UNDER SEAL**  
 :  
 v. :  
 :  
 [REDACTED] : [REDACTED]

SECOND MOTION TO AMEND CONDITIONS  
OF RELEASE AND CONTINUE SENTENCING

The Defendant, by and through undersigned counsel, hereby moves for a second order to amend his conditions of release and continue his sentencing hearing. In support thereof, undersigned counsel states as follows:

1. On September 17, 2009, the Defendant moved to amend his conditions of release and continue his sentencing hearing so that he could accompany his family on an Australian cruise granted by the Make-a-Wish Foundation of Georgia and Alabama, Inc., to his daughter, [REDACTED], who suffers from Ewing's Sarcoma. (Doc. 49). Except as is noted below, the information in that motion remains accurate.

2. On September 21, 2009, the court entered an order which granted the Defendant's motion by modifying his conditions of release to allow him to accompany his family on the cruise, and by continuing his sentencing hearing from December 1, 2009, to December 18, 2009. Unfortunately, that same day, the Make-A-Wish Foundation advised the Defendant that the anticipated cruise dates were no longer available. The Defendant requested written

confirmation of the new dates, and then forwarded that written confirmation, a copy of which is attached hereto, to undersigned counsel.

3. On September 28, 2009, undersigned counsel spoke with [REDACTED] and confirmed the accuracy of the attached letter. Ms. [REDACTED] explained that the Royal Carribean Cruise Line was not able to accommodate<sup>1</sup> the Make-A-Wish Foundation's request for a cruise during the originally anticipated travel dates, but she has confirmed the necessary arrangements with the cruise line for the new travel dates of December 9, 2009, through December 21, 2009.

4. On September 28, 2009, undersigned counsel spoke with Government counsel, Assistant United States Attorney Robert M. Hamilton, who advised that the Government does not object to amending the Defendant's conditions of release, and continuing his sentencing hearing, in order to accommodate the new travel dates.

For all of these reasons, the Defendant hereby moves for an order amending the travel restrictions in his conditions of release to allow him to accompany his family on the cruise during the new travel dates, and continuing his sentencing hearing until the next available date after December 21, 2009. The Defendant submits that, given his initial voluntary surrender, his compliance with all conditions of release, his unblemished record of timely appearances before this court, the unique combination of

---

<sup>1</sup> Due to budgetary constraints, the Make-A-Wish Foundation utilizes donated and reduced-fare cruises, which are only available on a limited basis.

circumstances involving his daughter's health and the Make-A-Wish Foundation's grant to her, and the reason for the changed travel dates, the requested modification and continuance are appropriate and just, and are not inconsistent with the need to "reasonably assure the appearance of the [Defendant] as required and the safety of any other person and the community." 18 U.S.C. § 3142(c)(1)(B).

Finally, because of the minor child's name and medical information included in this motion and its attachments, the Defendant requests that it be placed under seal.

Respectfully submitted this the 29<sup>th</sup> day of September, 2009.

LOUIS C. ALLEN III  
Federal Public Defender

/s/ Eric D. Placke  
ERIC D. PLACKE  
Assistant Federal Public Defender  
Arkansas State Bar No. 86207  
North Carolina State Bar No. 20671  
301 N. Elm Street, Suite 410  
Greensboro, NC 27402  
Phone: (336) 333-5455  
E-mail: Eric\_Placke@fd.org

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2009, I electronically filed the foregoing Second Motion to Amend Conditions of Release and Continue Sentencing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Mr. Robert M. Hamilton  
Assistant United States Attorney  
101 South Edgeworth Street  
Greensboro, NC 27401

I hereby further certify that, since this motion is being filed under seal, and is not available electronically to Government counsel or the United States Probation Officer, I served copies of the motion on the following by electronic mail:

Mr. Robert M. Hamilton  
Assistant United States Attorney  
101 South Edgeworth Street  
Greensboro, NC 27401

Mr. Joseph R. Maciejewski  
United States Probation Officer  
2330 Broad Street  
Durham, NC 27704

Respectfully submitted,

LOUIS C. ALLEN III  
Federal Public Defender

/s/ Eric D. Placke  
ERIC D. PLACKE  
Assistant Federal Public Defender  
Arkansas State Bar No. 86207  
North Carolina State Bar No. 20671  
301 N. Elm Street, Suite 410  
Greensboro, NC 27401  
Phone: (336) 333-5455  
E-mail: Eric\_Placke@fd.org