

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

UNITED STATES OF AMERICA :
 :
 v. :
 :
 :

MOTION TO RETURN DEFENDANT TO STATE CUSTODY

THE ABOVE DEFENDANT pleaded guilty to two (2) counts of possession of stolen mail on December 2, 2002, and a sentencing hearing was scheduled for March 17, 2003. The Defendant is in federal custody in the [REDACTED] Jail on a writ from state custody. The Defendant has a pending charge of breaking and entering in [REDACTED] NC.

On the pending charge in [REDACTED] the Defendant is under a \$5,000.00 cash bond, which neither the Defendant nor his family can afford. Therefore, the Defendant cannot have a hearing to determine his eligibility for pre-trial release on the federal charges to which he has pleaded guilty because he still has the detainer lodged against him for the [REDACTED] charge. The Defendant's [REDACTED] attorney, [REDACTED] has informed the undersigned counsel that, if the Defendant were returned to [REDACTED] to face the breaking and entering charge, the Defendant likely would receive a suspended sentence and some period of supervised probation. The Defendant's next

court date in [REDACTED] is January 9, 2003.

If the Defendant received a probationary sentence in [REDACTED] on January 9, 2003, he would be returned to federal custody and would be entitled to a hearing to determine his eligibility for pre-trial release on the federal charge. Assistant United States Attorney Harry L. Hobgood has indicated to the undersigned counsel that, assuming the Defendant does not have a serious criminal history (and the Defendant does not), the Government likely would not oppose pre-trial release on the federal charge.

The only way to determine eligibility for pre-trial release on the federal charge is to have the [REDACTED] charges disposed of as soon as possible. If that happens, and if the Defendant is released on pre-trial release on the federal charges in early January, then the Defendant not only would enjoy several months of pre-trial release prior to his sentencing hearing (and the Defendant likely is facing a probationary sentence on the federal charges), but the United States Government would not be required to continue to pay for the Defendant's pre-trial incarceration.

Defendant's counsel requested that [REDACTED] a staff investigator in the Office of the Federal Public Defender, consult with the Office of the United States Marshal, requesting

that the Defendant be returned to [REDACTED] immediately for the above reasons. The Office of the United States Marshal declined that request.

THEREFORE, the Defendant respectfully requests that the Court enter an Order directing the United States Marshal to return the Defendant to Richmond Co. immediately so that the Defendant's state charge can be disposed of on his court date in that county of January 9, 2003.

RESPECTFULLY SUBMITTED, this the ___ day of December, 2002.

WILLIAM C. INGRAM
First Assistant Federal Public Defender
North Carolina State Bar No. [REDACTED]
101 S. Elm St., Suite 210
Greensboro, NC 27401
(336) 333-5455

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing **MOTION TO RETURN DEFENDANT TO STATE CUSTODY** by United States Mail or by hand delivery upon:

Harry L. Hobgood, AUSA
P. O. Box 1858
Greensboro NC 27402

This the ___ day of December, 2002.

—

WILLIAM C. INGRAM
First Assistant Federal Public Defender

