

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
BEFORE THE HONORABLE LOURDES A. MARTÍNEZ

CRIMINAL CLERK'S MINUTES at Las Cruces

CASE NUMBER: CR 06-538 JH DATE: 04/09/08 COURTROOM: FTR/KBM

CLERK: E. GARCIA TYPE OF HEARING: MOTION TO MODIFY CONDITIONS OF RELEASE

DEFENDANT(S):	ATTORNEY(S):		
DANUEL DEAN QUAINANCE	JERRY HERRERA	(X) Appt'd.	() Ret'd.
MARY HELEN QUAINANCE	JOHN ROBBENHAAR	(X) Appt'd.	() Ret'd.
_____	_____	() Appt'd.	() Ret'd.
_____	_____	() Appt'd.	() Ret'd.

USA by: LUIS MARTINEZ AND AMANDA GOULD , Asst. U. S. Attorney Interpreter: NONE
Pretrial / Probation Officer present: MARTIN MARTINEZ Court in Session: 11:10-11:32AM {22 min.}

X Other: COURT CALLS CASE
 COURT: ADDRESSING MOTION TO MODIFY CONDITIONS OF RELEASE AND MS. QUAINANCE JOINED IN THAT MOTION
 DEFENSE-MR. ROBBENHAAR: ADVISES THE COURT THAT THEY JOINED IN THE MOTION, BECAUSE THE CONDITIONS AND CHARGES ARE IDENTICAL
 DEFENSE-MR. HERRERA: ADVISING THE COURT WHY THE MOTION WAS FILED, AS PER A TELEPHONIC CONVERSATION WITH MS. BARTON IN WHICH SHE RECOMMENDED THAT THEY BE TAKEN OFF SUPERVISION
 PSA OFFICER-TARA BARTON {TELEPHONIC, IN ARIZONA}:ADVISING THE COURT THAT THEY ARE PROVIDING COURTESY SUPERVISION. DEFT'S HAVE COMPLIED IN EVERY WAY. SHE RECOMMENDS TAKING DEFTS OFF SUPERVISION
 COURT: ASKING PSA HOW OFTEN THEY ARE TESTING THE DEFT'S
 PSA-BARTON: ONCE A MONTH, RANDOMLY
 COURT: ASKING MS. BARTON IF SHE CONTACTED THE PSA OFFICER IN NEW MEXICO, BEFORE THEY TAPERED OFF ON THE UA'S
 PSA-BARTON: NO, I DID NOT
 COURT: ADVISING MS. BARTON THAT THEY DO NOT DO THINGS LIKE THAT IN NEW MEXICO, THE GOVT OPPOSES RELEASE
 GOVT: SHOCKED THAT THE PSA OFFICER IN ARIZONA WOULD REQUEST THIS. ADDRESSING APPEAL THAT IS STILL PENDING; REQUESTING THAT DEFTS REMAIN ON PSA SUPERVISION WITH MORE FREQUENT UA'S, BI-WEEKLY; OPPOSES PSA RELEASE OF DEFTS
 COURT: ASKING PSA-MARTINEZ HIS RECOMMENDATIONS
 PSA-MARTIN MARTINEZ: ADVISES THE COURT THAT IN HIS ELEVEN YEARS, HE HAS NEVER SEEN A DEFT GET OFF SUPERVISION WITHOUT THE AGREEMENT FROM THE GOVT AND DEFENSE; HE WAS NEVER INFORMED BY MS. BARTON ADVISING DEFENSE COUNSEL TO SUBMIT THE MOTION, UNTIL TWO WEEKS AGO; OPPOSES PSA RELEASE OF DEFTS, THEY ARE DOING GOOD ON SUPERVISION, DO NOT RECOMMEND THAT THEY BE TAKEN OFF SUPERVISION

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DEFENSE-MR. HERRERA: ADDRESSING TO THE COURT THAT THE DEFTS ARE NOT FLIGHT RISKS, THEY OWN THEIR OWN HOME AND PROPERTY, FAMILY TIES, THEY ARE NOT A HARM OR DANGER TO THE COMMUNITY; ADDRESSING MOTION PERTAINING TO MR. KRIPNER
COURT: ADVISING COUNSEL THAT MR. KRIPNER'S CONDITIONS OF RELEASE WERE REVOKED TODAY

GOVT: DID NOT OPPOSE RELEASE OF MR. KRIPNER, AND THEY DON'T OPPOSE RELEASE OF THE QUAINANCE'S, THEY OPPOSE THE RELEASE OF PSA SUPERVISION

DEFENSE-MR. HERRERA: IF THEY ARE KEPT ON SUPERVISION, ASKING THAT UA'S BE REMOVED, BUT KEEP THE DEFTS ON SUPERVISION

COURT: ADDRESSING HISTORY OF THIS CASE, THIS IS A DRUG CASE, THIS IS A ZERO TOLERANCE CASE. THE COURT FOUND THAT THEY WERE A DANGER TO THE COMMUNITY AND A FLIGHT RISK, THE GOVT OPPOSED THE RELEASE OF THE DEFTS. THE COURT WENT AGAINST THE GOVT AND RELEASED THE DEFTS. CONDITIONS WERE IMPOSED AND THEY ARE EXPECTED TO FOLLOW THE CONDITIONS, THE QUAINANCES WERE WARNED THAT NO MATTER HOW SLIGHT OF A VIOLATION WILL RESULT IN A HEARING AND POSSIBLY THEY WILL REMAIN IN CUSTODY PENDING THE OUT-COME OF THEIR CASE; UA'S DONE ONCE A MONTH IS NOT ENOUGH, THE DEFT'S NEED TO BE TESTED BI-WEEKLY FOR BOTH DEFT'S; ADDRESSING THAT TRAVEL RESTRICTIONS BE LIFTED, ASKING WHY

DEFENSE HERRERA: BECAUSE OF THEIR OUTSTANDING PERFORMANCE ON SUPERVISED RELEASE, IT WAS NOT NECESSARY

COURT: ASKING WHERE THE DEFTS WANT TO GO

DEFENSE - MR. HERRERA: IT SEEMS TO BE UNNECESSARY AT THIS POINT

COURT: ADVISING COUNSEL THAT THEY ARE STILL UNDER INDICTMENT

DEFENSE - MR. HERRERA: DISAGREES W/UA'S DONE BI-WEEKLY, ASKING THAT IT BE DONE ONCE A WEEK

COURT: COURTESY SUPERVISION TO ARIZONA; ADVISING MS. BARTON OF HOW THINGS WILL BE DONE; DENY THE MOTION, PRAISING THE QUAINANCES AS TO THE COMPLIANCE THEY HAVE SHOWN; ADDRESSING TRAVEL RESTRICTIONS, PSA HAS THE DISCRETION TO ALTER TRAVEL RESTRICTIONS; MS. BARTON IS TO CONTACT MR. MARTINEZ BEFORE PERMISSION IS GIVEN

DEFENSE-MR. ROBBENHAAR: ADVISING THE COURT THAT UA'S WERE HIGHER AT THE BEGINNING AND NOW THEY ARE LOWER, ASKING THAT PSA USE THEIR EXPERTISE FOR UA'S, REQUESTING THAT UA'S NOT BE UPPED; THERE HAS BEEN NO VIOLATION IN TWO YEARS; ADDRESSING THE BAIL REFORM ACT-LEAST RESTRICTIVE MEANS; AT THIS TIME THINGS ARE WORKING

COURT: ADVISES COUNSEL THAT THE FREQUENCY OF RANDOM UA'S SHOULD HAVE BEEN MADE BY MR. MARTINEZ, NOT BY MS.BARTON; COURT'S CONCERN ABOUT THE SUPERVISION THEY RECEIVE OUT OF STATE BECAUSE IT'S AN ADDITIONAL BURDEN TO THE OFFICER IN ANOTHER STATE

COURT: ASKING MS. BARTON FOR DATES OF THE LAST FIVE (5) UA'S

PSA-MS. BARTON: 03/20, 02/07, NONE IN NOVEMBER, 12/21, 10/25, 07/05

COURT: THAT IS CERTAINLY NOT ONCE A MONTH. THE COURT'S ORDER STANDS. UA'S TO BE DONE BI-MONTHLY FOR SIX (6) MONTHS, CALL MR. MARTINEZ WITH RESULTS, IF MR. MARTINEZ FEELS THEY CAN GO BACK TO ONCE A MONTH, HE HAS THE DISCRETION; MARIJUANA IS CENTRAL TO DEFTS RELIGIOUS BELIEFS; THE MOTION WAS DEFEATED, GOVT IS TO PREPARE THE ORDER AND GET APPROVAL FROM DEFENSE COUNSEL; COURT IN RECESS