

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

UNITED STATES

*

vs.

* Case No.: 21-CR-28-APM

THOMAS E. CALDWELL

*

* * * * *

CONTESTED REQUEST TO MODIFY CONDITIONS OF RELEASE

COMES NOW the Defendant, Thomas E. Caldwell, by and through counsel, and respectfully requests that the Court modify his conditions of release and, in support, states as follows:

1. On March 12, 2021, the Defendant was released on the strictest of conditions, including 24/7 lock-down home incarceration at his residence and GPS monitoring. ECF No. 75.
2. On April 26, 2021, the Court amended the Defendant’s conditions of release to expand his “home incarceration” to include his entire farm. ECF No. 181.
3. On May 20, 2021, undersigned counsel was contacted, unsolicited, by Pretrial Services Officer Sara Morehead (Western District of Virginia), who supervises the Defendant. Officer Morehead encouraged undersigned counsel to contact the Court to request that the Defendant be transitioned to a curfew with GPS tracking instead of home incarceration. The Government was subsequently advised by Officer Morehead via email that Pretrial Services desired that the Defendant be transitioned to a curfew with GPS monitoring. The Government opposes the instant request.

4. According to Officer Morehead, the Defendant's multiple medical, dental, legal, and other approved furloughs have created a substantial burden on Pretrial Services. Additionally, the Defendant has abided by all restrictions placed upon him to date.
5. Since being released from confinement, the Defendant has been approved to leave his property 26 times, mostly medical and legal appointments. These visits, which have significantly increased in recent weeks, typically require the Defendant to be away from home for 5 to 11 hours at a time. For example, the Defendant's weekly legal visits to undersigned counsel's office, where he reviews discovery materials, with travel time (4.5 hours) consume 11 hours of time. These legal visits will double beginning next week as the discovery volume in this matter is extraordinary.
6. Additionally, the Defendant's medical visits typically require large blocks of time outside of his property. Medical appointments rarely begin on time, and some of his doctors are located 2 hours away in Bethesda, Maryland (beltway traffic). The Defendant's medical visits will likely increase soon, as his orthopedist advised that he will likely require (another) spinal fusion surgery in the upcoming weeks, and current "Telemed" appointments are being transitioned to office visits. His orthopedist has also prescribed physical therapy visits over the next several weeks.
7. Counting confirmed medical appointments, anticipated legal visits to undersigned counsel's office, and Sunday church services, the Defendant already has 20 approved furlough dates in the next five weeks. More dates for medical visits will likely be approved once appointments are scheduled with a physical therapist.
8. The Defendant, because of physical limitations and health concerns, rarely travels without his wife, Sharon Caldwell. As the Court may recall, the Defendant often

- requires a cane to ambulate. Additionally, the Caldwells rarely venture out of Clark County, Virginia, their domicile county, except for legal and medical visits. If the Defendant is granted a curfew, Mrs. Caldwell is willing to accompany the Defendant each and every time he leaves the property.
9. Officer Morehead advised the Government and undersigned counsel that Pretrial Services can monitor the Defendant's whereabouts via GPS tracking to ensure that he does not enter the District of Columbia or violate any other restrictions on his travel.
 10. As the Court may recall, the Government has conceded that it has no evidence that the Defendant entered the Capitol on January 6th, and has backed off earlier claims that he "held a leadership role" or a membership in the Oath Keepers. Additionally, the Government has backed off initial claims that Caldwell and his co-defendants conspired weeks in advance to specifically breach the Capitol. Discovery releases, moreover, confirm that the Defendant was not dressed in an Oath Keepers uniform, was not anywhere near the "stack" when it entered the Capitol, and was not on the communication channels specifically set up by the Oath Keepers for the January 6th event.
 11. The Defendant has proven that he will abide by the Court's release terms to the letter.
 12. A curfew of 7 a.m. to 7 p.m. on weekdays and 9 a.m. to 2 p.m. on weekends is appropriate, to alleviate the supervision burden on Pretrial Services and in light of the Defendant's compliance to date.

