

UNITED STATES DISTRICT COURT
for the
MIDDLE DISTRICT OF TENNESSEE

U.S.A. vs. Calvin Zastrow

Docket No. 0650 3:22CR00327 - 3

Petition for Action on Conditions of Pretrial Release

COMES NOW Douglas Murphy, PRETRIAL SERVICES OFFICER
presenting an official report upon the conduct of defendant Calvin Zastrow
who was placed under pretrial release supervision by the Honorable Barbara D. Holmes, U.S. Magistrate Judge
sitting in the Court at Nashville, Tennessee, on October 14, 2022, under the following
conditions: Please reference the attached Order Setting Conditions of Release.

Respectfully presenting petition for action of Court and for cause as follows:
Please reference pages two through three of this document.

I declare under penalty of perjury that the foregoing is true and correct.

Douglas Murphy 
U.S. Pretrial Services Officer

Nashville, TN
Place:

December 8, 2022
Date:

Next Scheduled Court Event

Trial
Event

January 16, 2024
Date

PETITIONING THE COURT

- ☐ No Action
☐ To Issue a Warrant

- ☒ To issue an order setting a hearing on the petition
☐ Other

THE COURT ORDERS:

- ☐ No Action
☐ The Issuance of a Warrant.
☐ Sealed Pending Warrant Execution
(cc: U.S. Probation and U.S. Marshals only)
☐ Other

- ☒ A Hearing on the Petition is set for

Considered and ordered this 9th day
of December, 2022, and ordered filed
and made a part of the records in the above
case.



Honorable Barbara D. Holmes
U.S. Magistrate Judge

Tuesday, December 20, 2022 2:00 p.m., Central
Date Time
to be conducted in person in Courtroom No. 3D
Fred D. Thompson Federal Building
719 Church Street
Nashville, TN 37203

On October 12, 2022, the federal warrant for the defendant's arrest was executed in the Eastern District of Michigan pursuant to an Indictment filed in the Middle District of Tennessee on October 3, 2022.

On October 12, 2022, the defendant appeared for an initial appearance in the Eastern District of Michigan, and the defendant was released to pretrial supervision.

On October 14, 2022, the defendant appeared for an initial appearance before Your Honor in the Middle District of Tennessee. The defendant was ordered to remain on the pretrial supervision with modifications to the previously imposed conditions of release.

The defendant resides in Michigan and courtesy supervision is being provided by the United States Pretrial Services Office in the Eastern District of Michigan.

Special Conditions of Pretrial Release:

Please reference the attached Order Setting Conditions of Release.

ALLEGED VIOLATION(S):

Additional Condition 7(x): The defendant is prohibited from entering any building that contains a facility that provides reproductive health services, the curtilage of such a building, or being within 20 feet of such a building, without prior approval of Pretrial Services/Probation.

On December 2, 2022, the undersigned officer received notification from the United States Probation Office in the Western District of Virginia that the defendant was protesting at the Bristol Women's Health, a clinic located in Bristol, Virginia, on this date.

The United States Probation Office in the Western District of Virginia received the aforementioned information through an email sent by the U.S. Marshals Service (USMS) in the Western District of Virginia. The email states that the clerk's office received a call from Bristol Women's Health advising that a federal fugitive was currently outside their business. This information was then forwarded to the USMS and subsequently to the FBI.

On December 5, 2022, the undersigned officer spoke to FBI Special Agent (SA) Chad Potter who was present on the scene during the protest. SA Potter advised that he made contact with the women's clinic staff on December 2, 2022, and the staff stated Calvin Zastrow, Coleman Boyd, who is a codefendant in the instant federal offense, and other individuals were currently protesting outside their business. SA Potter advised that he observed the defendant, Calvin Zastrow, protesting outside the women's clinic (on the curtilage of the building).

Additionally, the women's clinic was able to take photographs of said individuals during the protest, and those photographs were attached to the aforementioned email. The undersigned officer reviewed the photographs attached to the email and confirmed that the individual in the photograph titled "BOYD Van and Cal Zastrow" is in fact the defendant, Calvin Zastrow.

The undersigned officer confirmed with USPO Wenglikowski, the officer in the Eastern District of Michigan who is providing courtesy supervision, the defendant did not have prior approval to be on the curtilage of the building.

Probation Officer's Actions:

On December 2, 2022, after receiving the information noted above the undersigned officer relayed said information to the defendant's courtesy supervision officer, Eastern District of Michigan USPO Michelle Wenglikowski.

USPO Wenglikowski advised the undersigned officer that the defendant was preapproved to travel from November 27 to December 4, 2022. She advised that the defendant reported that the purpose of travel was evangelism, and he reported that he would be in Bristol, Virginia, on December 2, 2022.

USPO Wenglikowski advised that following the notification of the aforementioned violation, she left the defendant a voicemail instructing the defendant to return back to the Eastern District of Michigan and to call USPO Wenglikowski when he arrives back in the district. USPO Wenglikowski advised that as of this writing, the defendant did not return her phone call as instructed.

Respectfully Petitioning the Court as Follows:

Due to the alleged violation of conditions of release, Pretrial Services respectfully recommends a show cause hearing be issued. Assistant U.S. Attorney Amanda Klopf has been notified of the alleged violations.

Approved by:



Andrea M. Testa
Supervisory U.S. Probation Officer

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

UNITED STATES

v.

CALVIN ZASTROW

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Case No. 3:22-cr-00327-3

ORDER MODIFYING CONDITIONS OF RELEASE

The defendant Calvin Zastrow appeared for arraignment on October 14, 2022. For purposes of arraignment, and subject to any later substitution of counsel, the Court appointed counsel, Robert Parris, who also appeared.¹ Assistant U.S. Attorney Miller Bushong appeared for the United States. The defendant previously appeared for an initial appearance in the Eastern District of Michigan, at which time an order setting conditions of release was entered. (Docket No. 62-2.)

From the entire record, and pursuant to 18 U.S.C. § 3142(c)(3), the Court finds and concludes that the conditions of release are appropriately modified to conform to the conditions of release this Court would impose.² Specifically, the conditions of release previously imposed are modified as follows:

¹ The defendant stated that he intended to retain counsel.

² See e.g. *United States v. Emakoji*, 990 F.3d 885, 892 (5th Cir. 2021) (recognizing that court in district of prosecution can modify conditions of pretrial release set by court in district of arrest); *United States v. Dominguez*, 783 F.2d 702, 705 (7th Cir. 1986) (“the most informed decisions [about conditions of release] will almost always be made in the charging district”); *United States v. Durham*, No. 1:11-cr-042-JMS-KPF, 2011 WL 1330850, at *2 (S.D. Ind. Apr. 7, 2011) (magistrate judge in charging district has authority under § 3142(c)(3) to modify conditions of release set by court in arresting district); *United States v. Altamirano-Nunez*, Cr. No. 07-100S, 2007 WL 2783161, at *2 (D. R.I. Sept. 21, 2007) (magistrate judge in prosecuting district has “discretion to alter and even revoke the conditions imposed by the magistrate [judge] in the arresting jurisdiction”).

1. The defendant must have surrendered his passport on October 14, 2022 to a Pretrial Services officer for the Middle District of Tennessee.

2. The restriction on travel, Condition 7(g), is modified to clarify that the defendant's travel between the Middle District of Tennessee and the Eastern District of Michigan is limited to travel to the Middle District of Tennessee as necessary only for court appearances, meetings with defense counsel or the government, meetings with Pretrial Services, or as otherwise directed or approved in advance by Pretrial Services or by the Court.

3. The restriction on travel, Condition 7(g), is modified to permit the defendant to travel to the Western District of Michigan to visit his daughter provided he notifies Pretrial Services in advance of his intended travel.

4. The restriction on travel, Condition 7(g), is further modified to permit the defendant to travel to other jurisdictions to answer currently pending criminal charges, provided the defendant provides to Pretrial Services in advance the following: court documentation verifying the dates for which travel is needed (court order, summons, etc.); travel arrangements, including at least details and confirmation of outbound and returning flights; lodging details, including the address(es) of where the defendant will reside while in the jurisdiction. All conditions of release remain in effect while the defendant is traveling for this purpose, including while he is in any other jurisdiction.

5. The following conditions are added:

- a) The defendant must avoid all contact, directly or indirectly, with any person who is or may become a victim or witness in the investigation or prosecution of this case, including co-defendants, except that the defendant may have contact with co-defendants who are family members or close friends, including with co-defendant

Coleman Boyd, who is the defendant's physician, but not about this case. Additionally, the defendant may not travel to Mississippi where Coleman Boyd resides or otherwise for any reason, including for medical treatment, without advance permission of Pretrial Services.

- b) The defendant must not possess a firearm, ammunition, destructive device, or other dangerous weapon.
- c) The defendant must report as soon as possible, and by no later than 48 hours, every contact with law enforcement personnel, including arrest, questioning, or traffic stops.
- d) The defendant must permit Pretrial Services to visit at home or elsewhere without advance notification within the discretion of Pretrial Services and must permit confiscation of any contraband observed in plain view of the Pretrial Services officer(s).

6. All other conditions of release previously imposed by the Eastern District of Michigan on October 12, 2022 (Docket No. 62-2) and not modified herein remain unchanged and in full force and effect.

A potential issue was raised during the arraignment about the defendant's previously scheduled travel to Thailand for a mission trip scheduled to commence on October 18, 2022. To the extent the discussion constituted a request by the defendant to modify the restriction on his international travel, the request is denied. Conditions of release are, by their nature, the least restrictive means to accomplish the dual objectives of safety to the community and assurance of the defendant's appearance at judicial proceedings. International travel restrictions are imposed due to the simple fact that once the defendant leaves the United States, the Court, Pretrial Services,

and U.S. law enforcement lose jurisdiction over him.³ There are no conditions of release, even temporary, that would reasonably minimize the serious flight risk posed by the defendant's travel beyond the territorial limits of the United States. Moreover, international travel would require Pretrial Services to return the defendant's passport, permitting him to travel freely among foreign jurisdictions with no practical means of monitoring his movement or whereabouts, *see e.g. United States v. Pina-Nieves*, 535 F.Supp.3d 86, 89-90 (D. Puerto Rico 2021), and no easy way to ensure his return to the United States should he elect not to return voluntarily. For these reasons, the defendant shall not be permitted to travel to Thailand.

It is SO ORDERED.


BARBARA D. HOLMES
United States Magistrate Judge

³ Because of the intricacies of extradition treaties, including in most circumstances that the offense charged must be a crime under both the laws of the United States and the country from which extradition is sought, the Court cannot find that the possibility of extradition, even if ultimately available at all, mitigates against the substantial risk of flight posed by a defendant's international travel.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

UNITED STATES

v.

CALVIN ZASTROW

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**Case No. 3:22-cr-00327-3
Judge Trauger
Magistrate Judge Holmes**

ORDER MODIFYING CONDITIONS OF RELEASE

Pending before the Court is defendant Calvin Zastrow's motion to modify conditions of release to permit him to travel to organized church retreats and church-sponsored functions for which donations are made and which comprise the defendant's sole source of income. (Docket No. 101.) The motion indicates that the requested relief was discussed with Assistant U.S. Attorney Amanda Klopff, who advised the defendant's counsel that the government does not oppose a modification to Condition 7(g) to permit the defendant to travel for speaking engagements on certain conditions. Accordingly, the motion (Docket No. 101) is GRANTED and the conditions of the defendant's pretrial release, specifically, Condition 7(g) is modified as follows:

The defendant may travel within the continental United States for speaking engagements at church or non-profit functions and retreats for which he will receive income, provided he notifies Pretrial Services at least seven (7) days in advance of the purpose and nature of the travel, the location of travel, and the dates of travel, and Pretrial Services approves such travel. The notification to Pretrial Services must include: (i) the means by which the defendant will travel and if, by air, confirmation of flights, and (ii) the address of the location where the defendant will reside during the travel, and if, commercial lodging, confirmation of booking.

All other conditions of release previously imposed (*see* Docket Nos. 62-2 and 88) remain unchanged and in full force and effect, including during any and all travel periods.

It is SO ORDERED.


BARBARA D. HOLMES
United States Magistrate Judge