

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

UNITED STATES OF AMERICA)
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) 1:16CR299-1
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)
JOSHUA RISARD GRAVES)

ORDER

Defendant Joshua Risard Graves is presently in custody for alleged violation of the terms of his supervised release, and is awaiting his supervised release revocation hearing. This matter is presently before the Court on Defendant’s Motion for Immediate Release [Doc. #41], seeking release in light of the COVID-19 pandemic and the possibility of transmission in detention facilities. In an Order entered on March 25, 2020, the Court found that Defendant had not presented a sufficient basis to reconsider the detention order on this ground alone.

However, the Court further noted that the advisory Guideline range in the Supervised Release Violation Petition in this case is 3 to 9 months imprisonment, followed by an additional term of supervised release. The supervised release revocation hearing was originally set for April 6, 2020, and as of that date, Defendant will have been in custody for 3 months, which is the low end of the advisory Guideline range. However, the restrictions related to the COVID-19 pandemic have now required that the hearing be continued, which results in at least the possibility of Defendant over-serving his potential sentence for the alleged violation conduct. In light of this possibility, the Court requested a recommendation

from the Probation Office with respect to whether Defendant should be released under the original terms of supervised release, with the addition of further conditions including the possibility of third party custodians as Defendant proposed, and with the requirement that he appear when summonsed for the ultimate supervised release revocation hearing, understanding that any sentence then imposed could be greater than the time already served.

The Probation Office has now filed a Memorandum [Doc. #48], recommending that Defendant be released under the original conditions of his supervised release pending his upcoming violation hearing, with additional conditions. Specifically, the Probation Office recommends that Defendant be placed in the third-party custody of his parents, Melissa and Richard Graves, and that Defendant not leave his parents' residence unless in the company of a parent. In addition, Defendant would be required to abide by any stay-at-home orders in effect now or in the future in Guilford County, North Carolina. The Government has filed a Response agreeing to Defendant's release on these conditions, pending the supervised release revocation hearing. Defendant has filed a Response agreeing generally to the Recommendation but objecting to the condition that he not be allowed to leave his parents' residence unless in the company of a parent.

Having considered the filings, the Court will adopt the Recommendation of the Probation Office and will order that Defendant be released with the additional conditions recommended by the Probation Office. With respect to the condition that Defendant not leave his parents' residence unless in the company of a parent, the Court finds that this is a necessary and appropriate condition in light of Defendant's prior conduct leaving his parents' residence and absconding from supervision. However, the Probation Officer may approve

exceptions to that requirement on advance request to address medical necessities or similar exigencies.

IT IS HEREBY ORDERED that Defendant Joshua Graves's Emergency Motion for Immediate Release [Doc. #41] is hereby GRANTED to the extent set out herein.

IT IS ORDERED that Defendant be released to the custody of his parents, Melissa and Richard Graves, subject to all of the previously imposed terms of supervised release, with the following additional conditions of release:

1. Defendant is placed in the custody of Melissa and Richard Graves, who have agreed (a) to supervise Defendant, (b) to use every effort to assure Defendant's appearance at all court proceedings, and (c) to notify the Probation Officer immediately if Defendant violates a condition of release or is no longer in their custody.
2. Defendant must abide by any stay-at-home orders in effect now or in the future in Guilford County, North Carolina.
3. Defendant must not leave the residence of his parents, Melissa and Richard Graves, unless in the company of a parent, except as may be approved in advance by the Probation Officer to address medical necessities or similar exigencies.
4. Defendant must appear for the ultimate supervised release revocation hearing, understanding that any sentence then imposed could be greater than the time already served.

This, the 1st day of April, 2020.

/s/ Joi Elizabeth Peake
United States Magistrate Judge