

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY, AL

UNITED STATES OF AMERICA     )  
  )  
  )     CR. NO. 2:10cr186-MHT  
  )  
MILTON E. McGREGOR            )

RESPONSE IN OPPOSITION TO MOTION OF  
MILTON E. McGREGOR TO AMEND THE CONDITIONS OF HIS  
RELEASE UNDER 18 U.S.C. § 3142

Comes now the United States of America, through undersigned counsel, and submits its response in opposition to Defendant Milton E. McGregor’s Motion to Amend the Conditions of His Release (Doc. 291):

On December 17, 2010, Defendant Milton E. McGregor (hereinafter “the Defendant”) filed a motion asking the Court to amend the conditions of his release which were imposed by this Court on October 4, 2010. Specifically, the defendant is asking this Court to take him off of electronic monitoring because the ankle monitoring device is exacerbating his hypertension, interfering with his ability to sleep and, therefore, is detrimental to his health. Additionally, the defendant is asking that the curfew be removed from his conditions of release. The United States strongly opposes the amendments sought by the defendant for the following reasons.

First, the defendant agreed to the conditions on October 4, 2010, and the reasons cited in his motion do not warrant the relief sought.

Second, contrary to the defendant’s argument, the purpose of the monitoring device and curfew is not limited to risk of flight issues, it also serves to protect the

community, which was the primary concern of the Court when it imposed the condition. It is particularly important to note that when the issue of bond was raised, the Court was very troubled by the defendant's threat toward the arresting agents. It was the Court's concern about the threat that led to the defendant being placed on electronic monitoring, not any risk that the defendant might flee.

Third, the one-half page report submitted by the defendant's doctor is not sufficient to support a conclusion that the monitoring device is the proximate cause of the defendant's lack of sleep and elevated blood pressure. According to the letter, the doctor's opinion is based on the defendant's statement that he "cannot sleep *well* due to the *mild* discomfort of the bracelet" (*emphasis added*). There is nothing in the report that indicates whether the defendant's sleep condition would respond to medication, diet or a mild regimen of exercise. In fact, there is nothing in the letter that indicates whether the doctor even considered such medical treatment. Logically speaking, it is not uncommon for defendants to have difficulty sleeping when charged with federal felony offenses.

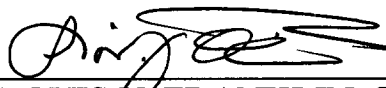
The United States asserts that if the defendant does not want to wear the monitoring device he can surrender to the United States Marshals and remain in their custody pending the outcome of the trial; or he can surrender to the United States Marshals for the purpose of being transported to a Federal Bureau of Prison facility where he will undergo an evaluation by their physicians. The latter will give the United States the opportunity and evidence necessary to challenge the letter submitted

by the defendant's doctor and allow the Court to make an informed decision on the issue.

Respectfully submitted this 14th day of January, 2011.

LANNY A. BREUER  
Assistant Attorney General, Criminal Division  
Attorney for the United States  
Acting Under Authority of 28 U.S.C. § 515

JACK SMITH, Chief  
Public Integrity Section



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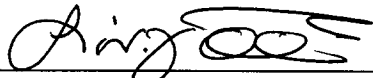
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IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA     )  
  )  
                                  v.     )  
  )  
MILTON E. McGREGOR         )     CR. NO. 2:10cr186-MHT

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on Joe Espy, III, Post Office Drawer 5130, Montgomery, Alabama, 36103, by depositing a copy of same in the United States mail, first class, postage prepaid, and properly addressed to him on this the 14<sup>th</sup> day of January, 2011.

  
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