

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-00297-14-CR-W-FJG
)	
GERALD D. WILLIAMS,)	
)	
Defendants.)	

**SUGGESTIONS IN SUPPORT OF MOTION TO MODIFY TERMS OF PRETRIAL
RELEASE BY DEFENDANT GERALD D. WILLIAMS**

Defendant Gerald D. Williams has filed his motion seeking modification of the Court’s Order setting the conditions of his release (Dkt. 61) (“Order”). Mr. Williams requests that travel restrictions in the Order be lifted for a period of four days so that he can retrieve business equipment he owns and which currently is located in North Carolina.

Background.

Mr. Williams is experienced in the trade of concrete construction. In previous years, he has operated a sole-proprietorship concrete construction business. In about 2006, Mr. Williams completed a concrete construction job in North Carolina. He left certain equipment in the care of an acquaintance in North Carolina following completion of the project. The concrete construction equipment includes mortar mixers, mortar boxes and a trailer.

Mr. Williams has decided to resume his sole-proprietorship concrete construction business. In order to resume his business, Mr. Williams needs to retrieve the construction equipment that he left in North Carolina. However, as a condition to his pretrial release, the Court restricted Mr. Williams’ travel to the State of Louisiana and elsewhere as necessary to meet with his counsel and to appear at Court proceedings. Order ¶ 9(b).

The construction equipment is located near Charlotte, North Carolina. Mr. Williams proposes to drive to the Charlotte area to retrieve the equipment and then to return to his home in Louisiana. Mr. Williams proposes to make this trip commencing on January 30 and concluding by February 2, 2009. The trip would require Mr. Williams to travel through Louisiana, Mississippi, Georgia, South Carolina and into North Carolina.

Argument.

The Bail Reform Act requires pretrial release under the least restrictive conditions that will reasonably assure the defendant's appearance at Court proceedings and the safety of the community. 18 U.S.C. § 3142(c)(1)(B). The Court exercises its discretion in setting conditions of release and it retains authority to modify these conditions, including the authority to act *sua sponte*. *United States v. Spilotno*, 786 F.2d 808, 815 (8th Cir. 1986). The Court should exercise its discretion and modify its Order. First, there is no reason to believe that the modification would induce Mr. Williams to flee. Mr. Williams was indicted in October. Since the indictment, he has complied with all Court orders regarding appearances and has remained in contact with Pre-Trial Services. Second, Mr. Williams is not a threat to any third persons. He is charged with an economic crime and he has no history of violent crimes. Third, the modification would support the Court's Order that Mr. Williams maintain employment while on release. Order, ¶ 9(a). The travel to North Carolina is necessary to his performance of his trade. All these circumstances make it clear that by modifying the conditions of release, the Court will comply with the statutory requirement of release subject to the least restrictive conditions appropriate in the circumstances.

The United States does not oppose Mr. Williams' motion.

On the basis of the foregoing, Defendant Gerald Williams requests that the Court enter its Order modifying paragraph 9(b) of the Order Setting Conditions of Release so as to allow Mr. Williams to conduct round-trip travel between his home in Louisiana and the area of Charlotte,

North Carolina between January 30 and February 2, 2009 for the purpose of retrieving construction equipment which he owns.

Respectfully submitted,

SPENCER FANE BRITT & BROWNE LLP

s/ Mark A. Thornhill

Mark A. Thornhill MO 26326
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106
Telephone: (816) 474-8100
Facsimile: (816) 474-3216
E-mail: mthornhill@spencerfane.com
ATTORNEYS FOR DEFENDANT
GERALD D. WILLIAMS

CERTIFICATE OF SERVICE

I hereby certify the foregoing was filed electronically with the United States District Court for the Western District of Missouri with notice of case activity generated and sent electronically on this 14th day of January, 2009, to:

Linda Parker Marshall
United States Attorney's Office
400 E. 9th Street
Kansas City, MO 64106
Telephone: (816) 426-3122
Facsimile: (816) 426-3126

And all counsel of record.

s/ Mark A. Thornhill

Attorney for Defendant Gerald D. Williams