FILED

9:20 am, 8/24/26

Margaret Botkins
Clerk of Court

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,

Plaintiff,

VS.

PAUL D. MCCOWN,

Defendant,

Case No. 22-CR-23

ORDER DENYING DEFENDANT'S MOTIONS FOR EARLY TERMINATION OF SUPERVISED RELEASE AND APPOINTMENT OF COUNSEL

This matter comes before the Court on Defendant Paul D. McCown's Motion for Early Termination of Supervised Release and the United States' Request for Modification of McCown's supervised release conditions. (ECF No. 54, 64). The United States submitted an objection to Defendant's early termination motion which included a motion for modification of the terms of Defendant's supervised release. (ECF No. 64 at 7-9). Mr. McCown's probation officer also submitted an update on his conduct and progress while under supervision. (ECF No. 56). That report notes Defendant's probation officer objects to Defendant's early release from supervision at this time. (*Id.* at 2). McCown has also filed a Motion to Appoint Counsel. (ECF No. 65). Having examined the motions and the government's objection, reviewed the record herein, and considered the relevant factors under 18 U.S.C. §§ 3583(e) and 3553(a), the Court finds the motion for early termination of supervision and the motion to appoint counsel (ECF No. 54, ECF No. 65) should be denied.

BACKGROUND

In March of 2022 Defendant pled guilty to seven counts of wire fraud involving over $15 million that he swindled out of various government and investment entities. (ECF No. 23). In July of 2022, Defendant was sentenced to 63 months for each count, to be served concurrently, followed by 3 years of supervised release. (ECF No 44 at 1-3). On March 21, 2025 Defendant was released from Bureau of Prison custody and began his three year term of supervised release. (See https://www.bop.gov/mobile/find_inmate/byname.jsp#inmate_results last visited August 21, 2026).

Due to the nature of his offense, one of the conditions of Defendant's special conditions of supervised release required:

> The defendant shall not work as a business manager or bookkeeper, or hold any position of employment in which he has sole access to bank accounts, payroll systems, financial records, or the personal identifiers of any individuals; however, he may perform these positions and/or duties if supervised by a business partner. He shall not be a signatory on any business account without a co-signatory and shall not be in a position to deposit or distribute funds with respect to any business account without supervision by a business partner or co-signatory. He shall allow the U.S. Probation Officer access to any and all business records and permit the U.S. Probation Officer to review any business accounts upon which the defendant is a signatory.

(*Id*. at 4). Defendant now seeks early termination of his supervised release. (ECF No. 54). The United States not only opposes his early termination, but seeks modification of his special conditions to expressly require Defendant to disclose his convictions and the requirements of his supervised release to various third parties, including potential employers and business partners. (ECF No. 64). Defendan

As set forth in the United States' response and attachments thereto, subsequent to his placement on supervised release, McCown used a falsified resume to obtain employment with a company as their chief of staff. (ECF No. 64 at 5, ECF No. 56 at 1, *see* ECF No. 64-1). While employed at this company, he had access to company banking credentials and obtained a company American Express card with his name on it. (ECF No. 64 at 6, see also 64-3, 64-4) He was let go after two weeks due to "background issues." (ECF No. 56 at 1). Defendant has failed to otherwise obtain full-time employment while on supervised release. (ECF No. 56 at 1).

I. Motion for Early Termination of Supervised Release

DISCUSSION

"Congress intended supervised release to assist individuals in their transition to community life. Supervised release fulfills rehabilitative ends, distinct from those served by incarceration." *United States v. Johnson*, 529 U.S. 53, 59 (2000) (citing S. Rep. No. 98–225, at 124). Title 18 U.S.C. § 3583(e) gives the Court authority to terminate supervised release early. It provides in relevant part:

> The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)—
>
> > (1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release … if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.

18 U.S.C. § 3583(e).

Considering the factors identified in §§ 3583(e) and 3553(a), the Court is not satisfied at this time that terminating Defendant's supervised release is warranted by his conduct and the interests of justice. According to Defendant, Defendant has remained fully compliant with his supervised release conditions, he has timely made restitution payments, and he has regularly reported to U.S. Probation. (ECF No. 54 at 2). Defendant is currently renting a home with his wife and children, is able to contribute financially towards food and gas, and on occasion, rent and utilities, and to date, he has paid a total of almost $14,000,000 in restitution, with an outstanding balance of $1,670,456.20. (ECF No. 56 at 1-2). These positive steps are encouraging.

That said, Defendant's employment has been tenuous. The update provided by Defendant's probation officer notes Defendant has never maintained stable full-time employment, and he is currently working on a part time basis as a Barista for the Coffee Bean and Tea Leaf. (ECF No. 56 at 1).

Additionally, Defendant has informed his probation officer that he "is actively pursuing high-level employment opportunities that may place him in positions of financial trust, including potential access to bank accounts, payroll systems, financial records, or the personal identifying information of others. . . . [S]uch potential access presents a heightened risk that warrants continued oversight." (*Id*. at 2). Thus, Defendant's probation officer believes he could benefit from some continued supervision (*id.*), and the Court agrees.

Moreover, the United States explains that Defendant affirmatively misled the company he was briefly employed for two-weeks prior to being let go for background issues. (ECF No. 56 at 1, ECF No. 64 at 5). Specifically, he submitted a falsified resume and claimed he had successfully led Big 10 Consulting from June 2022, while he was incarcerated. (ECF No. 64 at 5, *see* ECF No. 64-1). As the United States rightly contends, Defendant's claims that he "formed a successful consulting company and delivered results from federal prison is specious." (*Id*.). As a result of his falsified resume, Defendant McCown secured employment as Chief of Staff for a company, where he had access to personal and company banking credentials, and a company provided American Express card in McCown's name. (*Id*. at 6, see also 64-3, 64-4). The United States contends McCown's "deceitful behavior with [company] . . . demonstrates criminal thinking and a return to the kind of conduct that resulted in" McCown's wire fraud conviction. This Court certainly shares a concern.

In considering Defendant's conduct on supervision as well as the various factors under § 3553(a), including "the nature and circumstances of the offense and the history and characteristics of the defendant," the need "to afford adequate deterrence to criminal conduct," and the need "to protect the public from further crimes of the defendant," the Court finds continued supervision is necessary and of benefit to Defendant and termination of supervised release is not warranted at this time. The positive steps Defendant has taken are encouraging, but his apparent use of deception to secure employment shows he has not escaped his criminal thinking patterns.

II. The Government's Request to Modify the Conditions of Defendant's Supervised Release

The United States' objection requests that this Court modify Defendant's conditions of supervised release. (See ECF No. 64 at 7-9). Specifically, the United States proposes modification of Defendant's supervised release conditions is required "to clarify the level of supervision required for his access to sensitive information in the course of his employment and to warn potential employers about his criminal history and the requirements of his supervision." (*See* ECF No. 64 at 7).

However, "[a] party applying to the court for an order must do so by motion." Fed. R. Crim. Pro. R. 47(a). It is improper to request relief in a response or objection. *U.S. v. Margheim*, 770 F.3d 1312, 1323, n. 6 (10th Cir. Oct. 29, 2014) ("Federal Rule of Criminal Procedure 47 makes clear that any time a party 'appl[ies] to the court for an order,'. . . he 'must do so by motion.'); *United States v. Samilton*, 2023 WL 8634819, at *1 (W.D. Okla. Dec. 13, 2023) (citing Fed. R. Crim. Pro. R. 47(a) ("A request to the court must be in the form of a motion.")); *Williams v. United States*, 2019 WL 2567336, at *1 (D. N.M. June 21, 2019) (citing Fed. R. Crim. Pro. R. 47(a) ("any request to the Court for an order mandatorily must be made by motion.")). The Government's request to modify Defendant's supervised release conditions in their objection is improper. The United States must follow the Federal Rules, and if they seek modification of Defendant's conditions of supervised release, they must do so by motion in compliance with Rule 47(a) and 32.1.

III. Motion for Appointment of Counsel

As to Defendant's request for counsel, Defendant's motion requests counsel to assist him related to the government's request to modify Defendant's conditions of supervised release. (ECF No. 65). Under Rule 32.1(c) Defendant is entitled to counsel. However, because the government's request to modify Defendant's supervised release conditions is improperly included in their response and denied, for those reasons set forth above. Thus, at this time, Defendant's motion to appoint counsel will be denied, without prejudice as well. If the government files a Petition to Modify Defendant's conditions of supervised release, Defendant may renew his motion for appoint of counsel, and if eligible[1] Defendant will be appointed counsel.

ORDER

THEREFORE, IT IS HEREBY ORDERED that Defendant's Motion for Early Termination of Supervision (ECF No. 54) is **DENIED**.

IT IS FURTHER ORDERED Defendant's Motion to Appoint Counsel (ECF No. 65) is **DENIED**.

Dated this 21st day of August, 2026.

Scott W. Skavdahl
United States District Judge

[1] During his underlying criminal proceedings Defendant did not submit any affidavit to establish his eligibility for appointment of counsel because he had retained counsel. Retained counsel recently sought and was allowed to withdraw. (ECF No. 66 and 68).