

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

United States of America

v.

Aticha Jittaphol

No. 21-CR-10270-MLW

DEFENDANT'S MOTION FOR RELEASE FROM CUSTODY

Aticha Jittaphol hereby moves the Court to release her from custody.

Ms. Jittaphol has been in custody since approximately April 22nd. Her guideline range is 0-6 months.

Ms. Jittaphol maintains that she has never used methamphetamine or any other illegal drug since she entered a detox program in December. She challenges the accuracy of the sweat patch tests that came back positive. After her last probation hearing, two additional patch tests came back positive, while all urine tests continued to come back negative. The continued inconsistency lends further support to her position that the patch tests are wrong.

Ms. Jittaphol urged the Court to stop patch testing and require her to provide an additional urine test every week. The Court rejected the proposal, stating that this additional testing would pose too much of a burden on Probation. Stopping the patch testing would have simply resulted in swapping the burden of patch testing every week for the burden of doing another urine test every week. Instead, the patch tests continued.

When Ms. Jittaphol was in detox and step-down in-patient treatment, she was a model patient. If the Court believed that Ms. Jittaphol was using

methamphetamine, there were conditions short of incarceration that could have been imposed with no basis to assume non-compliance. She could have been placed in in-patient treatment. Ms. Jittaphol opposed this because she was not using drugs. But she's now incarcerated largely because this Court did not believe her. That same disbelief could have warranted placement in in-patient treatment, where there was absolutely no reason to anticipate non-compliance given her history. Instead, she was punished for her violations, all of which, aside from her not acknowledging that she had worked, involved drug treatment issues which would have been moot if she'd been put in treatment instead of Wyatt.

Ms. Jittaphol is prepared to begin trial later this month. Allowing her to be home would make it far easier for her to prepare for trial with counsel. When both the defendant and the government proposed home confinement at the last probation hearing, the Court expressed concern that someone could bring her drugs at her home. This concern could be addressed by having her do urine tests twice a week, rather than prioritizing the inconvenience to probation over Ms. Jittaphol's freedom.

Detention should be about an inability to comply with the conditions of probation, nothing else. Ms. Jittaphol should be released to home confinement.

ATICHA JITTAPHOL

By her Attorney,

/s/ Keith Halpern

Keith Halpern, BBO # 545282
572 Washington Street, Suite 19
Wellesley, MA 02482
(617) 722-9952

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 9, 2022.

/s/ Keith Halpern