

United States District Court
for the
Southern District of West Virginia
Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender
(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Calvin Butler Case Number: 2:22CR00161

Name of Sentencing Judicial Officer: Honorable Joseph R. Goodwin, United States District Judge

Date of Original Sentence: May 18, 2023

Original Offense: 18 U.S.C. § 1343: Wire Fraud

Original Sentence: 5 years of probation with the first 6 months to be served on home detention without electronic monitoring. As a special condition, the defendant is ordered to pay \$18,540 in restitution with monthly installments of \$100 per month.

Type of Supervision: Probation

Date Supervision Commenced: May 18, 2023

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

The defendant, Calvin Butler, shall serve 30 days of home detention without the use of location monitoring, subject to the terms and conditions of the program administered by the Probation Office. The defendant shall not leave the approved residence except for approved employment, observance of one religious service weekly, medical or other emergencies, or other absences approved in advance by the Court or Probation Office.

The defendant, Calvin Butler, shall pay restitution in monthly installments of no less than \$50 per month until the amount has been paid in full due to a change in financial circumstances.

CAUSE

Violation Number

Nature of Noncompliance

1.

Violation of mandatory condition number two: The defendant must not unlawfully possess a controlled substance:

On November 22, 2023, Mr. Butler submitted a urine specimen which tested positive for cocaine. Initially, the offender denied any use of controlled substances; however, during an office contact with the probation officer on December 5, 2023, Mr. Butler signed a voluntary admission form acknowledging use of the substance on November 20, 2023.

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2. **Violation of mandatory condition number three: The defendant must not unlawfully use a controlled substance:**

The probation officer realleges the conduct contained within Violation Number One.

3. **Violation of standard condition number two: After initially reporting to the probation office, you will receive instructions from the Court or probation officer about how and when you must report to the probation officer, and must report to the probation officer as instructed:**

On October 28, 2023, Mr. Butler was instructed by the probation officer to report to the United States Probation Office in Charleston West, Virginia on October 31, 2023. The offender failed to report as instructed.

4. **Violation of standard condition number five: The defendant must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements, you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of the change or expected change:**

On November 1, 2023, Mr. Butler moved from his address of record. He failed to notify the probation officer of the change until November 14, 2023. Therefore, Mr. Butler failed to notify the probation officer prior to the change or within 72 hours following the change, as ordered.

5. **Violation of standard condition number seven: The defendant must work full time at a lawful type of employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work, you must notify the probation officer at least 10 days prior to that change taking place. If notifying the probation officer is at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of the change or expected change:**

On November 14, 2023, Mr. Butler informed the probation officer he lost his reported employment with Holiday Inn & Suites in Cross Lanes, West Virginia, on November 1, 2023. Mr. Butler failed to notify the probation officer at least 10 days prior to that change.

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6. Violation of additional probation term number two: Offender shall submit to random urinalysis or any other drug screening method deemed appropriate by the probation officer and shall participate in a substance abuse treatment program as directed by the probation officer:

On May 23, 2023, Mr. Butler was instructed by the probation officer to participate in one hour of individual substance abuse counseling each month.

Mr. Butler failed to attend a counseling session in September 2023.

7. Violation of special condition number two: The defendant shall pay restitution in the amount of \$18,540, to the fullest extent feasible. The defendant shall pay in monthly installments of no less than \$100 during a term of probation with the first installment to be paid within 30 days of the entry of this order:

Since beginning his term of probation on May 18, 2023, Mr. Butler has paid \$100 towards his restitution and has a remaining balance of \$18,440. Mr. Butler has failed to make regular restitution payments as ordered.

Mr. Butler, through counsel, has agreed to serve a period of 30 days on home detention without the use of location monitoring, as a condition of supervised release. In addition, the probation officer proposes the offender's required monthly restitution payment be lowered to \$50. This officer believes such a modification will serve as a punitive sanction for the offender's conduct and assist him in making more consistent monthly payments toward his financial obligation to the Court.

The probation officer respectfully recommends that Mr. Butler's conditions of probation be modified as noted above.

Respectfully submitted,



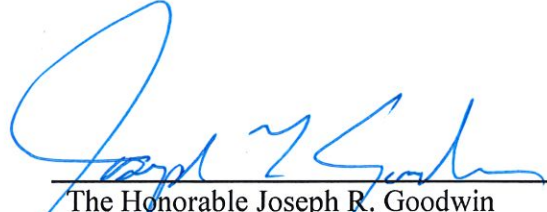
Justin L. Gibson
Senior United States Probation Officer
January 9, 2024

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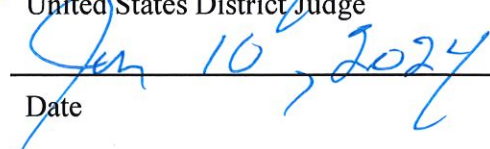
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THE COURT ORDERS:

- ☒ The modification of conditions as noted above
- ☐ No action
- ☐ The issuance of a summons
- ☐ A hearing be scheduled in this matter
- ☐ Other



The Honorable Joseph R. Goodwin
United States District Judge



Date

Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision

UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF WEST VIRGINIA
CALVIN BUTLER, DOCKET NO. 2:22CR00161

I, CALVIN BUTLER, have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my conditions of probation or supervised release or before my term of supervision is extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing. I further understand that I may waive my right to a hearing after conferring with counsel or by making such waiver before a United States Magistrate Judge.

CB I acknowledge that I have conferred with counsel prior to executing this waiver and I hereby willingly, knowingly, and voluntarily waive my statutory right to a hearing and agree to the following modification(s) of my conditions of probation or supervised release, or to the proposed extension of my term of supervision:

The defendant, Calvin Butler, shall serve 30 days of home detention without the use of location monitoring, subject to the terms and conditions of the program administered by the Probation Office. The defendant shall not leave the approved residence except for approved employment, observance of one religious service weekly, medical or other emergencies, or other absences approved in advance by the Court or Probation Office.

The defendant, Calvin Butler, shall pay restitution in monthly installments of no less than \$50 per month until the amount has been paid in full due to a change in financial circumstances.

Calvin Butler 1/9/24
Probationer or Supervised Releasee Date

Calvin Butler
Printed Name

I acknowledge that I have conferred with the defendant prior to the defendant executing this document.

Dan R. Bengard 1/9/24
Counsel Date

Dan R. Bengard
Printed Name