IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(WICHITA DOCKET)

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No. 6:21-cr-10073-EFM
	)	
v.	)	
	)	
MICHAEL R. CAPPS,	)	
	)	
Defendant,	)	
_____	)	

Motion to Vacate Order Granting Release from Custody Pending Appeal

COMES NOW the Defendant, Michael R. Capps, *pro se*, hereby respectfully moves this Court to vacate its Memorandum and Order (Doc. 121) issued on June 23, 2023, which granted the Defendant's Motion for Release from Custody Pending Appeal. In support of this motion, Defendant-Appellant asserts the following:

Procedural Background

On June 23, 2023, this Court issued a Memorandum and Order granting Defendant's Motion for Release from Custody Pending Appeal (Document No. 115). The Court based its decision on findings that Defendant was not a flight risk, did not pose a danger to the community, and that the appeal raised a substantial question of law which could result in a new trial.

Rationale for Vacating the Order

A. Change in Circumstances:

1. Conclusion of the Appeal Process

Mandate Issued: On October 24, 2024, the Tenth Circuit Court of Appeals issued a mandate, affirming the district court's judgment and concluding the Defendant's direct

appeal. This final decision resolves current appellate issues, eliminating the need for the previous order releasing the Defendant pending appeal.

2. **Voluntary Compliance:** The Defendant voluntarily acknowledges the appellate court's decision and is prepared to comply with the sentence imposed by the district court. Consequently, the need for release pending appeal no longer exists, and Defendant seeks to commence the sentence as ordered.

B. Interests of Justice

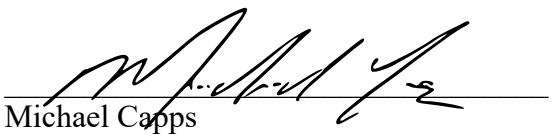
1. Vacating the previous order allows the Bureau of Prisons to proceed with the execution of the district court's sentence. This action aligns with the principles of judicial finality and ensures the proper administration of justice, honoring both the appellate court's mandate and the original sentencing order.

Conclusion

WHEREFORE, for the reasons stated, Defendant-Appellant respectfully requests that this Court vacate the order granting release from custody pending appeal and permit the Bureau of Prisons to implement the sentence of the court immediately.

DATED: October 27, 2024

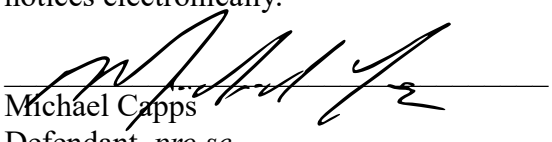
Respectfully submitted,



Michael Capps
Defendant, *pro se*

CERTIFICATE OF SERVICE

I certify that on the 27th day of October 2024, the foregoing was electrically filed with the Clerk of the Court using the CM/ECF system, which will send a notice to all parties receiving notices electronically.



Michael Capps
Defendant, *pro se*