

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MOTION TO MODIFY CONDITIONS OF PRETRIAL RELEASE
TO PERMIT THE USE OF MEDICAL MARIJUANA

Mr. Daquay Wright, through his counsel, Assistant Federal Public Defender Andrew Lipson, requests this Court to modify the conditions of his pretrial release to permit his use of medical marijuana. Such relief is appropriate because (1) he has a diagnosed medical condition pursuant Pennsylvania's Medical Marijuana Act of 2016; (2) he is prescribed medical marijuana for that medical condition by a Pennsylvania practitioner, and (3) he is in compliance and possession of a valid identification card issued by the Pennsylvania Department of Health. In support of this request counsel avers:

1. Mr. Wright is charged with felon in possession of a firearm in violation of 18 U.S.C. § 922(g). Dkt. No. 3.

2. Mr. Wright was released on conditions by Magistrate Judge Maureen P. Kelly on June 27, 2019. Dkt. No. 15.

3. One such condition of release states, “[t]he defendant must not violate federal, state, or local law while on release.” Dkt. No. 15. Condition 7(m) of his release conditions states that Mr. Wright must not “use or unlawfully possess a narcotic drug

or other controlled substances ... unless prescribed by a licensed medical practitioner.” *Id.* at 2.

4. Mr. Wright requests this Court to modify his conditions to specifically allow the use of medical marijuana as long he is in compliance with Pennsylvania law. In the alternative, he requests that this Court take no punitive action if he is violated for medical marijuana use, so long as that use is in compliance with Pennsylvania law.

5. Pennsylvania enacted the Medical Marijuana Act in 2016 (“The Act”). The Act provides that “use or possession of medical marijuana . . . is lawful within this Commonwealth” so long as the “patient” meets certain requirements. *See* 35 Pa. Stat. Ann. § 10231.303. In particular, medical marijuana may only be dispensed to “a patient who receives a certification from a practitioner and is in possession of a valid identification card issued by the department.” *Id.* § 10231.303(b)(1)(i).

6. Mr. Wright is diagnosed with [REDACTED] and was evaluated by Dr. Russell Kling, a licensed Pennsylvania practitioner with Veriheal, on October 28, 2020. Mr. Wright was certified to obtain a marijuana card on that date pending transmission of prior medical records from Mr. Wright’s former physician in California. Due to unusual delays related to COVID-19, Mr. Wright was not able to provide those records until mid-March 2021. Having now done so, Mr. Wright was officially certified to obtain a medical marijuana card. Using that certification, Mr. Wright obtained a medical marijuana card from the Pennsylvania Department of Health. *See* Medical Marijuana Card (*attached as Exhibit A*).

7. Courts within this District have permitted the use of medical marijuana when in compliance with Pennsylvania law. *See United States v. Richard Martin*, 09-cr-98 (W.D. Pa. Apr. 24, 2019) (Dkt. No. 133) (permitting the use of medical marijuana provided use remains in compliance with Pennsylvania law); *United States v. Nicole Hooper*, 19-cr-142 (W.D. Pa. Aug. 6, 2020) (Dkt. No. 64) (same); *United States v. Damon Johnson*, 20-cr-86 (W.D. Pa. Nov. 3, 2020) (Dkt. No. 44) (same).

8. United States Probation Officer, Matthew P. Anderson, has informed undersigned counsel that he takes no position on the matter and will defer to this Court's judgment.

9. Officer Anderson reports that Mr. Wright has been otherwise compliant with the terms of pretrial supervision and is currently employed.

10. The Government, through Assistant United States Attorney Douglas C. Maloney, opposes the request.

WHEREFORE, Mr. Daquay Wright, requests this Court to modify the conditions of his pretrial release to permit his use of medical marijuana.

Respectfully submitted,

s/ Andrew Lipson
Andrew Lipson
Assistant Federal Public Defender



EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ORDER OF COURT

AND NOW, this _____ day of _____, 2021, upon
consideration of the foregoing Motion to Permit the Use of Medical Marijuana, it is
hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED;

IT IS FURTHER ORDERED that Mr. Wright is permitted the use of medical marijuana while on pre-trial release provided that he fully complies with all Pennsylvania state regulatory requirements.

Mark R. Hornak
Chief United States District Judge