

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

04 JUN -3 PM 3: 43

U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA,)
)
v.) CR-03-BE-0530-S
)
RICHARD M. SCRUSHY,)
)
Defendant.)

YB
ENTERED
JUN - 3 2004

ORDER ON APPEAL OF CONDITIONS OF RELEASE

This cause is before the court on defendant Richard M. Scrusy's Objection To and Appeal From Magistrate Judge Putnam's Order of May 12, 2004, Denying Modification of Travel Restrictions (doc. 189). The motion denied was the Defendant's Motion to Modify Conditions of Release, filed May 3, 2004 (doc. 165). By this motion, the defendant Mr. Scrusy sought permission to travel to Mobile and Baldwin Counties, Alabama, under the same conditions required for travel to the remaining counties in Alabama under the Conditions of Release, as modified .¹ Magistrate Judge Putnam denied the defendant's request for modification. (doc. 180).

Having conducted a *de novo* review of the record, including the transcript of the hearing on the motion, and carefully considered the submissions of counsel and the applicable law, the court finds that the objection is due to be overruled and the order

¹An earlier Motion to Modify the Conditions of Release (doc. 63; original Order Setting Conditions of Release, doc. 24) was filed by defendant on December 16, 2003. The December 16th motion was granted in part and denied in part by order of United States Chief Magistrate Judge Michael Putnam on December 29, 2003. (doc. 74). Thus, the Conditions of Release currently in place are referred to herein as Conditions of Release, as modified.

appealed from is due to be affirmed. The court further finds that the Conditions of Release, as modified, meet the statutory requirements of 18 U.S.C. § 3142. The Conditions of Release, as modified, were carefully crafted by Magistrate Judge Putnam to reasonably assure the defendant's appearance at trial while imposing the least restrictive conditions on the defendant in the interim. See 18 U.S.C. § 3142(a) and (c). The court is satisfied that the conditions currently imposed upon Mr. Scruschy are the least restrictive conditions to reasonably assure his appearance at trial.²

During the hearing of the May 3rd motion, the government agreed to consideration by Magistrate Putnam of future specific requests by defendant for travel with his family for vacations to Mobile and Baldwin Counties, Alabama, unaccompanied by counsel. Transcript of Hearing, May 12, 2004, pp. 16 (line 8) -17 (line 16), 21(line 20) - 22 (line 17), 23 (line25) - 24 (line 19). Such requests are to be individually considered and, if granted, subject to such conditions as will continue to fulfill the requirements of 18 U.S.C. § 3142 in the judicial opinion of Magistrate Judge Putnam. Requiring Mr. Scruschy to obtain prior approval for travel to the coast does not impose an onerous burden in view of the interests to be balanced under 18 U.S.C. § 3142. Right of appeal to this court of the Magistrate Judge's future rulings regarding travel remains intact.

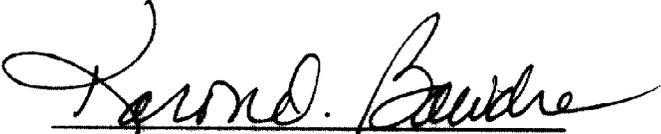
²The court also finds that the restrictions placed on Mr. Scruschy while on vacation with his family are reasonable and appropriate under the circumstances and should not be modified.

Accordingly, the court hereby **ORDERS** that the defendant's **Objection** to Magistrate Judge Putnam's Order of May 12, 2004, Denying Modification of Travel Restrictions is hereby **OVERRULED**.

The court **FURTHER ORDERS** that the **Order** of United States Magistrate Judge Putnam entered **May 12, 2004**, Denying Modification of Travel Restrictions is hereby **AFFIRMED**.

The court **FURTHER DIRECTS** the clerk to file of record a redacted copy of the Defendant's Objection and Appeal, and to maintain the original document under seal.

DONE and ORDERED this 3rd day of June 2004.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE