

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No: 18-20989 CR Altman

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JOHNNY GROBMAN, et. al.,
Defendant.

DEFENDANT’S UPDATED AND AMENDED MOTION FOR RELEASE
PENDING SENTENCING

COMES NOW, the Defendant Johnny Grobman, by and through Philip L. Reizenstein Esq., and hereby files this updated and amended Motion for release pending sentencing. The sections that have been updated and amended are indicated by being underlined with the designation: “Updated”.

1. The defendant was convicted on February 6, 2020. Although Grobman had surrendered his passport and had not missed any court hearings, the court revoked his bond and took him into custody.
2. The defendant has not filed a request to be released after being taken into custody.
3. Grobman was convicted of a non-violent offense. Based on breaking events surrounding the Coronavirus, the shutdown of FDC to all visitors including legal visitors for at least thirty-days, Mr. Grobman’s health, and potential

issues for appeal, the defense moves this Court to set a bond and conditions of release to allow Mr. Grobman to leave FDC and return home pending sentencing.

Introduction

Johnny Grobman moves the Court for a hearing to set conditions upon which he can be released pending sentencing. Grobman is currently detained at FDC Miami, which has shut the facility for any visitations including legal visits for at least thirty days.

HEALTH:

The health risk to Grobman is heightened because of his medical conditions, which place him within the heightened “at risk” category. The undersigned defense counsel spoke this week with Mr. Grobman’s internist Dr. Bernard Vainrub, MD who told counsel that Mr. Grobman is pre-diabetic and being treated with metformin. Dr. Vainrub also stated that Mr. Grobman has been diagnosed with Discoid Lupus Erythematosus¹ an auto-immune deficiency disease, which means Grobman is among the group of people the Centers for Disease Control and Prevention (“CDC”)

¹ Discoid lupus (discoid lupus erythematosus) is a chronic autoimmune disease affecting the skin. It gets its name from the coin-shaped lesions it produces. Discoid lupus should not be confused with systemic lupus. Systemic lupus can also cause a mild rash, usually on the face, but it also affects the internal organs. A person with systemic lupus can also have discoid lesions. Discoid lupus doesn’t affect internal organs, but the rash tends to be much more severe. Ann Pietrangelo, *Discoid Lupus*, Healthline (Aug. 30, 2017), <https://www.healthline.com/health/discoid-lupus>.

has categorized as most-at-risk for contracting COVID-19. Dr. Vainrub said that his notes indicated that Mr. Grobman was not suffering a Lupus outbreak at the time of his last visit but that he could suffer one at any time. Counsel states on his personal knowledge that stress is known to contribute to Lupus attacks.

UPDATED COLLATERALIZATION OF BOND:

The defense proposes a combination of bonds as follows: three separate ten percent bonds- one for one million dollars; one for eight-hundred and fifty-thousand dollars; and reinstatement of a \$150,000.00 ten percent bond in which the clerk of the court still has the funds. Two personal surety bonds comprising a total of one million five hundred thousand dollars. The total amount of bonds will be three million five-hundred-thousand dollars as follows:

1) A one -million-dollar PSB signed by Noemi Grobman and Johnny Grobman. The government and defense have agreed by corresponding during the pendency of the motion that the martial home has two million dollars of equity of which Mrs. Noemi Grobman would be entitled to one million dollars if the home were sold. To be clear, Mrs. Grobman is prepared to pledge every last nickel of equity that she may be entitled to in the marital home whatever that number is. This means that Mrs. Noemi Grobman is willing to risk the ruination of the financial future of her children to assure this court that Mr. Grobman will return to court.

Mr. Grobman's largest asset is his home, which he owns with his wife as

tenants by the entirety. As such, regardless of forfeiture and fines, Noemi Grobman has an undivided one-half interest in the marital home. The execution of the fines and forfeiture amounts would not affect Mrs. Grobman's interest in the marital home and her share will amount to over two million dollars pending market conditions at the time the home is sold. If the Court set a Personal Surety Bond at Three Million Dollars co-signed by Grobman's wife, a significant majority of the Grobman family assets that will be used to secure the future of his three young daughters -all under the age of eighteen -that are not already subject to forfeiture would be pledged to ensure Mr. Grobman's return.

2) A one-million-dollar ten percent bond signed by Abraham Vurnbrand. Mr. Vurnbrand will deposit \$100,000.00 with the clerk of the court. [Affidavit One].

3) A five hundred-thousand -dollar PSB signed by Edy Gross who owns a home at 2040 NE 211 Street, North Miami, FL, 33179 with over four hundred thousand dollars in equity. [Affidavit Two].

5) Alan Grobman, Mr. Grobman's brother posted a ten percent \$150,000.00 bond at the start of the case. The clerk still has the \$15,000.00 and Alan Grobman will re-sign whatever papers are needed for the bond to remain in effect. Mr. Grobman will additionally sign an \$850,000.00 ten percent bond with \$85,000.00 to be posted with the clerk of the court. The funds will come from Mr. Alan Grobman's home equity loan from his residence at 2071 NE 210th Street, Miami, FL, 33179.

CONDITIONS OF CONFINEMENT PRESENT A RISK TO MR.

GROBMAN'S HEALTH:

Conditions of pretrial confinement create the ideal environment for the transmission of contagious disease.² Inmates cycle in and out of FDC from all over the United States and the world. Currently the people who work at FDC, including correctional officers, and care and service providers ,leave and return daily, without screening, as screening is mostly unavailable. According to public health experts, incarcerated individuals “are at special risk of infection, given their living situations,” and “may also be less able to participate in proactive measures to keep themselves safe...[Further] infection control is challenging in these settings.”³

Federal prisons currently don't have COVID-19 test kits and there is no reason to expect prisoner health concerns will be a societal priority.⁴

Updated Conditions in FDC: under information and belief, all inmates are now confined to their rooms for twenty-two hours a day. There is no kosher food being provided to Mr. Grobman. Recently this week food was recycled from food served the prior day for reasons unknown to the defense. Many defense counsel in

² Joseph A. Bick, *Infection Control in Jails and Prisons*, Vol. 45 (Issue 8):1047-1055 (2007), <https://doi.org/10.1086/521910>.

³ Yale School of Public Health and Yale Law School students, *Achieving A Fair And Effective COVID-19 Response: An Open Letter to Vice-President Mike Pence, and Other Federal, State, and Local Leaders from Public Health and Legal Experts in the United States*, (March 2, 2020), <https://bit.ly/2W9V6oS>.

⁴ Joshua Eaton, *Federal prisons don't have coronavirus test kits for inmates*, Roll Call (Mar. 6, 2020, 7:12 PM), <https://www.rollcall.com/2020/03/06/federal-prisons-dont-have-coronavirus-test-kits-for-inmates/>.

the SDFL are reporting difficulties in scheduling legal phone calls with their clients and the undersigned counsel affirms that his ability to review a lengthy and complex PSR with his client to adequately prepare for sentencing has been severely compromised. Additionally other individuals have reported that their client's access to any medical services have been curtailed. There is no reason to risk Mr. Grobman's life for a sentence in a non-violent, first offense, fraud case, in which the loss amount is subject to serious dispute that need not be litigated before this court at this time.

During the period of release Grobman will reside with his wife and three young daughters at the same address he was living during his pretrial release. There were no issues whatsoever during the time Grobman was on pretrial release during which Grobman and his family traveled within the United States after obtaining permission from the court.

CHANGED CIRCUMSTANCES DUE TO THE COVID-19 OUTBREAK:

Travel within the United States and outside of the United States is restricted and limited. Without a passport and with the closing of country borders, there is literally no place Grobman could flee to.

Pursuant to the local rules, the motion was provided to the government who indicated that they oppose the court granting this motion.

WHEREFORE, the defense moves this Court to set reasonable conditions of release

and a bond pending sentencing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 24, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record listed in the Service List below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

S/Philip L. Reizenstein
Philip L. Reizenstein, Esq.
Service List:
United States Attorney's Office