



U.S. Department of Justice

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

January 25, 2015

**BY ECF**

The Honorable Paul A. Crotty  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *United States v. Albert Baldeo*,  
S1 13 Cr. 125 (PAC)

Dear Judge Crotty:

The Government respectfully writes to provide an update to the Court regarding the continued self-hospitalization of the defendant in the above-captioned matter, and to ask the Court to order certain measures in light of recent developments.

Background

Sentencing in this matter was scheduled for last Wednesday, January 21, 2015, at 3:30 p.m.

Approximately three hours prior to the proceeding, a facsimile was sent to defense counsel, which defense counsel forwarded to the Court, from Nima Tagipour, MD, of Flushing Hospital Medical Center, stating in pertinent part: "Albert Baldeo has admitted in the emergency room for chest pain on 1/21/15 and will be transferred to the telemetry unit for cardiac monitoring. Patient will remain in the hospital till cardiac evaluation is completed."

The same afternoon, a conference was held, in lieu of sentencing, at which defense counsel represented that, to the best of his present information, tests performed of the defendant had not indicated there to be any problems with him, and that, accordingly, he was expected to be discharged by the following day.

The following day, Thursday, January 21, defense counsel reported to the Court that the defendant remained in the hospital, and although tests continued not to show anything of concern, a different kind of test had been ordered for the next day, which was believed to be standard procedure for someone of the defendant's age who had self-reported chest pains. According to defense counsel, if that test also did not show anything of concern, the defendant was expected to be discharged the next day, Friday, January 22. However, defense counsel also

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reported that the defendant had announced that he had an alleged new medical issue—“weakness on his left side.”

The Court ordered sentencing to proceed in four calendar days, specifically, tomorrow, Monday, January 26, at 2:30 p.m. An ECF notice to that effect was transmitted to the parties and uploaded to the public docket at 5:46 p.m. on Thursday, January 22.

Approximately three hours later, without informing the Court or his counsel, the defendant requested his then-current hospital to transport him, by ambulance, to Long Island Jewish Medical Center. The defendant’s request was effected at approximately midnight.

The following day, Friday, January 23, the Government asked defense counsel to provide to the Government the basis for the defendant’s late-night transfer. Defense counsel responded that they did not know the basis, and when they had attempted to speak with Dr. Tagipour, with whom defense counsel had previously spoken, Dr. Tagipour stated that he was no longer authorized by the defendant to discuss the defendant’s alleged medical conditions.

Later the same day, defense counsel informed the Court that a different doctor, Dr. Lee, stated to defense counsel that the defendant “had an angiogram and cardio catheterization procedure to clear two blockages, and that two stents were inserted. They are keeping him overnight, and assuming no complications, he will be discharged tomorrow.” No letter from Dr. Lee or any other medical professional was provided to confirm or provide context for this development, which appeared to be in tension with the tests previously performed at Flushing Hospital Medical Center, which, to the Government’s knowledge, had not found anything of material concern, much less something that required an immediate procedure.

Later the same day, defense counsel informed the Court that defense counsel “received a call from Dr. Jauhar, the cardiologist who performed [the defendant’s] procedure. He said he understands that [the defendant] has a court date set for Monday and recommended that we delay it for a week because ‘it’s not good to have a lot of stress right after a stent is inserted.’” No letter from Dr. Jauhar, Dr. Lee, or any other medical professional accompanied the call from an individual identifying himself as Dr. Jauhar. The Court declined to adjourn the sentencing.

Yesterday, the Government learned that the defendant had not been discharged, as he was otherwise expected to be, because he complained of alleged chest pain.

Today, the Government learned that the defendant remains in the hospital, for unknown reasons. The Government also learned that the defendant instructed the hospital not to include his name in its system or to inform anyone who called that a patient with his name is a patient. The Government understands that this option, commonly known as “opting out,” is typically provided to and availed of by victims of domestic violence or others who fear that for their safety if their location is known. The Government is unaware of any basis for the defendant, who is on bail pending sentencing, under the supervision of Pretrial Services, to invoke this option, much less to do so without providing contact information to Pretrial Services and/or the Court.

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Discussion

Based on the foregoing, the Government is concerned both that (a) the defendant is faking or exaggerating his alleged medical problems in order to delay sentencing and/or support an argument at sentencing for leniency, and (b) the defendant may be seeking to hide his location, so to as complicate or defeat the ability of Pretrial Services to supervise him, and the ability of law enforcement to ensure that he does not seek to flee prior to sentencing.

Accordingly, the Government respectfully requests the following:

First, the Government requests that the Court schedule a conference tomorrow (Monday) morning, in which the defendant himself shall participate, by telephone if necessary, at which the defendant must (1) provide an explanation of (i) his requested late-night transfer from Flushing Hospital Medical Center to Long Island Jewish Medical Center, (ii) the basis for his apparently related instruction to Dr. Tagipour not to speak with defense counsel, (iii) the basis for his “opting out” at Long Island Jewish Medical Center, and (2) provide a complete report on his present status.

Second, the Government requests that, if the defendant remains in the hospital at the time of the conference, the Court order the defendant to inform immediately the Court, through counsel, of his discharge from the hospital or transfer to any other medical facility, and provide to Pretrial Services contact information during the time when he remains hospitalized.

Third, the Government requests the Court to order Flushing Hospital Medical Center and Long Island Jewish Medical Center to provide or make available to the Government (and any doctor retained by the Government) all records and test results with respect to the defendant’s hospitalization, transfer, and alleged medical conditions.

This afternoon, the Government contacted defense counsel via electronic mail to inquire as to their understanding of the defendant’s present status and to discuss various issues raised in this letter. The Government has not yet heard back from counsel.

Respectfully submitted,

PREET BHARARA  
United States Attorney

By: s/ Daniel C. Richenthal  
Daniel C. Richenthal  
Martin S. Bell  
Assistant United States Attorneys  
(212) 637-2109/2463

cc: (by ECF)

Henry E. Mazurek, Esq.