
NO. 17-12653-D

IN THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

UNITED STATES OF AMERICA

Plaintiff-Appellee,

versus

XIULU RUAN, M.D.,

Defendant-Appellant.

A DIRECT APPEAL OF A CRIMINAL CASE
FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA, MOBILE DIVISION

TIME-SENSITIVE / EMERGENCY MOTION FOR APPEAL BOND

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

UNITED STATES OF AMERICA)	
)	
)	
v.)	APPEAL NO.: 17-12653-D
)	
)	
XIULU RUAN, M.D.)	
_____)	

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to 11th Cir. R. 26.1-1, counsel for Appellant, Xiulu Ruan, M.D.,
certifies that the following persons have an interest in the outcome of this case:

Gordon G. Armstrong, III - Counsel for Defendant

Hon. Sonja F. Bivins - United States Magistrate Judge

Blue Cross Blue Shield of Alabama

Christopher J. Bodner - Assistant United States Attorney

Christopher B. Brinson - Assistant United States Attorney

Richard W. Moore - United States Attorney

*C & R Pharmacy, LLC

John Patrick Couch - Defendant

Jason B. Darley - Counsel for Defendant

United States v. Ruan, No. 17-12653-D

Defense Health Agency

L. Burton Finlayson - Counsel for Defendant

Judge Callie V.S. Granade - United States District Court

Deborah A. Griffin - Assistant United States Attorney

Dennis J. Knizley - Counsel for Defendant

Nicholas A. Lotito - Counsel for Defendant

Steve Martinie - Counsel for Defendant

Medicare Office of Financial Management - Parts A & B; Part D

Adam W. Overstreet - Assistant United States Attorney

Page A. Pate - Counsel for Defendant

*Physician's Pain Specialists of Alabama, P.C.

Xiulu Ruan - Defendant / Appellant

United Health Group

*No public corporation owns any stock in these entities.

Respectfully submitted,
s/ Nicholas A. Lotito
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Georgia Bar No. 458150

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TIME-SENSITIVE / EMERGENCY MOTION FOR APPEAL BOND

Comes now Appellant, XIULU RUAN, M.D., (hereinafter “Dr. Ruan”) by and through undersigned counsel, pursuant to 18 U.S.C. §§3143(b), 3142(g) and 3142(i), and files this time-sensitive / emergency motion for appeal bond. The emergency at hand is the COVID-19 CORONAVIRUS pandemic and its recent and direct impact on Dr. Ruan and his fellow inmates at the Oakdale Correctional Institution in Oakdale, Louisiana. Additionally, the record - including PSR, briefs, appendices and oral argument held before the Court on August 23, 2019 - establishes by clear and convincing evidence that Dr. Ruan is not likely to flee, is not a danger to any other person or the community and that his direct appeal raises substantial questions of law and fact. These questions on direct appeal, if resolved in Dr. Ruan’s favor, are likely to result in the reversal of his convictions and a new trial. In further support of this motion for appeal bond, Dr. Ruan shows as follows:

1.

(Personal and Case History).

Dr. Ruan is 57 years old. He was born in China, and achieved U.S. citizenship in 2000. He obtained his U.S. medical license in 2002. (Doc:722:V23:5749.) He achieved board certification in pain management and eight specialties

and sub-specialties. (Doc:722:V23:5746,5748.) He has written over 100 peer-reviewed articles in pain management and is respected in the field. (Doc:722:V23:5782-84.) The conviction in this case is his only criminal record. Dr. Ruan was free on bond during his trial in the Southern District of Alabama. He made all court appearances as directed. The district court took him into custody after jury verdicts were returned on February 23, 2017. He is currently serving the two hundred fifty-two (252) month sentence imposed by the district court on May 26, 2017. (Doc:665.) Notice of appeal was filed, the case was briefed by the parties. A panel of this Honorable Court heard oral argument on August 23, 2019.

2.

(The COVID-19 Emergency).

Dr. Ruan is housed at FCI Oakdale, in Louisiana¹. As reported recently in the *Washington Post* and other media, the spread of the coronavirus COVID-19 has exploded at FCI Oakdale. The *Washington Post* reports at least 30 inmates and staff at Oakdale have tested positive for the virus². (See article attached hereto as

¹See <https://www.bop.gov/inmateloc/>
Name Search: Xiulu Ruan. (Last accessed 4/1/2020.)

²See https://www.washingtonpost.com/national/an-explosion-of-coronavirus-cases-cripples-a-federal-prison-in-louisiana/2020/03/29/75a465c0-71d5-11ea-85cb-8670579b863d_story.html

(Last accessed 4/1/2020.)

“Exhibit 1.”) As of April 2, 2020, at least three inmates at Oakdale have died from COVID-19^{3 4 5}. A recent publication from BOP⁶ reports 11 inmates and 4 staff members being infected, but these statistics are mounting. An article in Gulf Coast publication, *The LENS*, reveals that FCI Oakdale is no longer testing inmates with COVID-19 symptoms, but presuming all showing symptoms are positive, in an effort to conserve testing kits.⁷ Clearly, this pandemic is escalating. Prisons are the worst place with the worst conditions imaginable to encounter and survive this virus. Neither the BOP nor the state of Louisiana has the required medical resources and number of ventilators necessary to handle this medical crisis. Given the lack of medical staff, appropriate drugs, face masks, sterilization products and ventilators, it is most likely this outbreak at Oakdale will deteriorate further. It is probable that many more inmates at Oakdale will die. The death rate

³See

https://www.vice.com/amp/en_us/article/5dmend/second-inmate-dies-from-covid-19-at-louisiana-prison-as-entire-federal-system-goes-on-lockdown (Last accessed 4/1/2020.)

⁴<https://www.npr.org/sections/coronavirus-live-updates/2020/04/01/825448006/second-federal-in-mate-dies-from-covid-19> (Last accessed 4/2/2020.)

⁵Dr. Ruan reports the second inmate who died was housed in the same building, 2 cells down from his.

⁶See <https://www.bop.gov/coronavirus/> (Last accessed 4/1/2020.)

⁷ See

<https://thelensnola.org/2020/03/31/louisiana-federal-prison-no-longer-testing-symptomatic-inmates-for-coronavirus-due-to-sustained-transmission/> (Last accessed 4/1/2020.)

of those infected in prisons will far exceed the death rate of those living in the free world. As to COVID-19, prisons are like cruise ships, but without the amenities.

3.

DR. JONATHAN LOUIS GOLOB, Assistant Professor at the University of Michigan School of Medicine in Ann Arbor, declares the following:

COVID-19 makes certain populations of people severely ill. People over the age of 50 are at higher risk, with those over 70 at serious risk. As the Center for Disease Control and Prevention has advised, certain medical conditions increase the risk of serious COVID-19 for people of any age. These medical conditions include: those with lung disease, heart disease, diabetes, or immunocompromised (such as from cancer, HIV, autoimmune diseases), blood disorders (including sickle cell disease), chronic liver or kidney disease, inherited metabolic disorders, stroke, developmental delay, or pregnancy.

....

In most people, the virus causes fever, cough, and shortness of breath. In high-risk individuals as noted above, this shortness of breath can often be severe. Even in younger and healthier people, infection of this virus requires supportive care, which includes supplemental oxygen, positive pressure ventilation, and in extreme cases, extracorporeal mechanical oxygenation.

....

Nationally, without effective public health interventions, CDC projections indicate about 200 million people in the United States could be infected over the course of the epidemic, with as many as 1.5 million deaths in the most severe projections. Effective public health measures, including social distancing and hygiene for vulnerable populations, could reduce these numbers.

....

During the H1N1 influenza ("Swine Flu") epidemic in 2009, jails and prisons were sites of severe outbreaks of viral infection. Given the avid spread of COVID-19 in skilled nursing facilities and cruise

ships, it is reasonable to expect COVID-19 will also readily spread in detention centers, particularly when residents cannot engage in proper hygiene and isolate themselves from infected residents or staff.

....

This information provides many reasons to conclude that vulnerable people, people over the age of 50 and people of any age with lung disease, heart disease, diabetes, or immunocompromised (such as from cancer, HIV, autoimmune diseases), blood disorders (including sickle cell disease), chronic liver or kidney disease, inherited metabolic disorders, stroke, developmental delay, or pregnancy living in an institutional setting, such as an immigration detention center, with limited access to adequate hygiene facilities and exposure to potentially infected individuals from the community are at grave risk of severe illness and death from COVID-19.

(See attached “Exhibit 2,” sworn declaration of Dr. Golob).

4.

DR. MARC STERN, former Assistant Secretary for Health Care at the Washington State Department of Corrections, board-specialized in internal medicine, specializing in correctional health care, declares the following:

Detention facilities are congregate environments, i.e. places where people live and sleep in close proximity. In such environments, infectious diseases that are transmitted via the air or touch are more likely to spread. This therefore presents an increased danger for the spread of COVID19 if and when it is introduced into the facility. To the extent that detainees are housed in close quarters, unable to maintain a six-foot distance from others, and sharing or touching objects used by others, the risks of spread are greatly, if not exponentially, increased as already evidenced by spread of COVID-19 in another congregate environment: nursing homes and cruise ships.

(See attached “Exhibit 3,” sworn declaration of Dr. Stern).

5.

During the week of March 30, 2020, Dr. Ruan contacted his sister, “JOAN” XIU QIONG RUAN MARTINIE, by telephone and email and informed her that several of his cell-mates show symptoms of COVID-19 infection, including fever, dry cough and loss of smell and taste. (See affidavit attached as “Exhibit 4.”)

6.

Dr. Ruan’s medical history includes respiratory issues (allergies), a heart condition (ischemic heart disease), and borderline / pre-diabetes. He is surrounded by sick men who are coughing constantly. Sleep is nearly impossible. Vitamins and other commissary supplies are no longer available at Oakdale. The likelihood that this 57 year old man will contract COVID-19 is frighteningly high. Given his age and medical history, he is at risk to contract the virus and be severely affected by it. It is not hyperbole to suggest - he could die.

7.

As this Court is aware from the appellate record before it, Dr. Ruan was a practicing medical doctor convicted of non-violent offenses. He has no history of personal drug abuse or convictions for violence. He is not a sex offender. He is designated to low security prison in Oakdale, Louisiana. He has had no alleged

infractions, conduct complaints or “SHOTS” while in BOP custody. He did not flee or give any suggestion of flight prior to or during his trial⁸. His medical license has been suspended because of his conviction in this case. Dr. Ruan, his sister, “Joan” Martinie, and his children are U.S. citizens who reside in this country.

8.

As contained in his briefs and put forth at oral argument, Dr. Ruan’s direct appeal raised substantial questions of law and fact which are at a minimum, “close questions,” which could go either way. The Bail Reform Act of 1984 governs release pending appeal. Title 18 U.S.C. § 3143(b) provides that a person who has been found guilty of an offense and sentenced to a term of imprisonment, who seeks direct appeal, shall be detained unless the court finds (1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the community or another person if released and (2) that the appeal is not for purposes of delay and raises a substantial question of law or fact likely to result in reversal or a new trial. *Id. United States v. Giancola*, 754 F.2d 898, 900-01 (11th Cir. 1985), cert. denied, 479 U.S. 1018, 107 S.Ct. 669, 93 L.Ed.2d 721 (1986).

⁸His initial arrest in the case occurred (embarrassingly) at the Atlanta Airport as he was traveling to Baltimore, MD, to attend his daughter’s college graduation. He was released on a \$10,000 signature bond by a magistrate judge in the NDGA. (Doc:109-1).

9.

In deciding this question of bond, this Court should apply the standard from this Circuit's decision in *Giancola* and consider the Eighth Circuit's decision in *United States v. Powell*, 761 F.2d 1227 (8th Cir. 1985):

. . . a defendant who wishes to be released on bail after imposition of a sentence including a term of imprisonment must first show that the **question presented by the appeal is substantial, in the sense that it is a close question or one that could go either way**. It is not sufficient to show that reasonable judges could differ (presumably every judge who writes a dissenting opinion is still 'reasonable') or that the issue is fairly debatable or not frivolous. On the other hand, **the defendant does not have to show that it is likely or probable that he or she will prevail on the issue on appeal**. If this part of the test is satisfied, **the defendant must then show that the substantial question he or she seeks to present is so integral to the merits of the conviction it is more probable than not that reversal or new trial will occur if the question is decided in the defendant's favor**. In deciding whether this part of the burden has been satisfied, the court or judge to whom application for bail is made must assume that the substantial question presented will go the other way on appeal and then assess the impact of such assumed error on the conviction. . . .

Powell, 761 F.2d at 1233-34. (Emphasis added).

In considering the second part of this standard; i.e. whether it is more probable than not that the issue on appeal, if substantial under the above

definition, would result in a reversal or a new trial (or new sentencing hearing) a defendant must show this to be the case on all counts of conviction for which a term of imprisonment was imposed. See *United States v. Randell*, 761 F.2d 122, (2d Cir. 1985).

10.

Dr. Ruan does not request a bond for purposes of delay. In truth, the granting of bond will not delay the direct appeal in any way. Most importantly, bond is warranted here when failure to grant relief may result in a (subsequently over-turned) conviction for a non-violent crime, resulting in a sentence of death. Dr. Ruan is not a flight risk. The government still has his passport. Dr. Ruan's daughters and sister live in the United States.

11.

Title 18 U.S.C. §3143(b) authorizes the granting of an appeal bond and incorporates criteria and provisions from 18 U.S.C. §3142, which governs pretrial release. Title 18 U.S.C. §3142 (g) directs the courts to consider “the person's . . . physical and mental condition” in determining whether or not to grant bond or impose conditions of release. *Id.* Title 18 U.S.C. §3142(i) allows a judicial officer to “**permit the temporary release of the person**, in the custody of the United States . . . to the extent the judicial officer determines such release to be necessary

for preparation of the person's defense **or for another compelling reason.**" 18 U.S.C. §3142(i), (emphasis added). The reason here is compelling. Dr. Ruan should not be subjected to COVID-19 and death in Oakdale FCI while his meritorious appeal is pending before this Court.

12.

Counsel for the government indicates the United States does not consent to this motion.

13.

(Requested Relief).

To simplify this request, Dr. Ruan asks that his original bond imposed in Southern District of Alabama (Docs:109-1 and 123)⁹, be reinstated with conditions modified to allow Dr. Ruan to travel to and reside in his sister's and her husband's home in Milwaukee, Wisconsin. Dr. Raun agrees to accept and abide by the conditions of GPS monitoring, home confinement and supervision by U.S. Pretrial Services in the district where he resides¹⁰. Dr. Ruan's family is willing and able to post a secured bond if required. Dr. Ruan's family has the resources and expertise to care for his health to isolate him from prisoners, guards, and the public,

⁹Attached hereto as "Exhibit 5."

¹⁰Eastern District of Wisconsin.

removing the burden of his care from the BOP. Once “home” in Wisconsin and cleared of the virus, it is foreseeable that Dr. Ruan could assist licensed physicians in the treatment of those suffering from the effects of COVID-19 and fighting this pandemic. Given suitable protective equipment and resources, Dr. Ruan is quite willing and able to offer his medical expertise to help society combat this coronavirus in any way possible. Obviously, he would not endeavor to do this unless authorized by the courts and his Pretrial Services officer.

14.

Should his conviction be overturned and a new trial ordered by this Court, Dr. Ruan agrees to appear and report as directed to the district court in the Southern District of Alabama. Should his conviction be affirmed by this Court, Dr. Ruan agrees to return to FCI Oakdale or other facility as directed by the Bureau of Prisons, at a time when the BOP determines and directs that such facilities are safe to accept inmates.

WHEREBY XIULU RUAN, M.D., requests that his time-sensitive

/ emergency motion be granted and that he be released immediately on bond.

This 2nd day of April, 2020.

Respectfully submitted,

s/ *Nicholas A. Lotito*
NICHOLAS A. LOTITO
Georgia Bar No. 458150

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CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed the foregoing time-sensitive / emergency motion for appeal bond with the Clerk of Court using the CM/ECF system which will automatically send email notifications of such filing to all counsel of record including AUSA Sonja M. Ralston.

STATEMENT OF TYPE SIZE AND STYLE

Pursuant to 11th Cir. R. 28-2(d), counsel for Appellant hereby certifies that the size and style of type used in this motion is Times New Roman 14 PT.

CERTIFICATE OF COMPLIANCE

Pursuant to FRAP 32(g) counsel hereby certifies that this motion complies with the form and volume limitations set forth in FRAP 27 (d).

This 2nd day of April, 2020.

Respectfully submitted,

s/L. Burton Finlayson
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EX. 1 *WASHINGTON POST*
ARTICLE

re: OAKDALE FCI

By **Kimberly Kindy**

March 29

A federal prison in Louisiana has, within days, exploded with [coronavirus](#) cases, leading to the death of one inmate on Saturday, the admission of a guard into a hospital intensive care unit, and positive test results for another 30 inmates and staff.

Patrick Jones, 49, was the first inmate in the Federal Bureau of Prisons diagnosed with the novel coronavirus, which causes covid-19, and the first to die. At least 60 inmates at the Oakdale prison are in quarantine and an unknown number of staff are self-quarantining at home, said Corey Trammel, a union representative for correctional officers at the 1,700-inmate facility about 110 miles northwest of Baton Rouge.

“It’s been simultaneous, just people getting sick back to back to back to back,” Trammel said. “We don’t know how to protect ourselves. Staff are working 36-hour shifts — there’s no way we can keep going on like this.”

The prison bureau is not releasing the names of other infected inmates or staff, citing medical and privacy concerns. Jones complained of a “persistent cough” on March 19, the prison bureau said, and was transported to a hospital where he was diagnosed and placed on a ventilator. The prison bureau also said Jones had “long-term, preexisting medical conditions” that increased his risk of developing the disease. Jones was convicted in 2017 of possession with intent to distribute crack cocaine within 1,000 feet of a junior college. He was serving a 27-year sentence.

Louisiana ranks 10th highest among states for reported coronavirus cases, with more than 3,300 people who have tested positive and another 137 who have died, government reports show. A week before the Oakdale prison had its first positive case, Gov. John Bel Edwards (D) issued a stay-at-home order and closed all public schools.

Trammel said the prison bureau has been slow to respond to the crisis across the country. The bureau last week banned family and friends from visiting inmates, but the officers' union had lobbied the federal prison system to take this action for weeks to keep the disease from infiltrating the prison walls.

The Bureau of Prisons updates confirmed coronavirus cases most afternoons on its website, but there has been a lag between cases reported by the officers' union and prison officials. As of Sunday afternoon, the prison system had only confirmed 14 inmates and 13 staff have tested positive.

At Oakdale, Trammel said staff also asked prison officials — weeks before the first coronavirus case — to shut down a prison labor program within the facility, where more than 100 prisoners make inmate clothing. The program, Trammel said, was not shut down until after the first inmate tested positive.

The Bureau of Prisons — which operates 122 prisons with more than 175,000 inmates — did not immediately respond Sunday to a request for comment. Oakdale Warden Rod Myers could also not be reached for comment.

Trammel said he asked the prison bureau on Saturday to send specialized medical teams to the facility to help with staffing shortages. He's also asking for hazard pay, which would increase their salaries by 25 percent as they respond to the crisis. And he's asking for more robust protective gear, including masks with respirators and perhaps face shields.

"We are bringing inmates to the hospitals and are staying right beside them around the clock," Trammel said. "All we have is these itty bitty masks — a piece of towel over our faces — and nurses are coming into the room for a few minutes and they are all suited up."

He also said he believes all Oakdale prison staff have now been exposed to the virus. Days ago, he interacted with an inmate who had a fever and still doesn't know if the prisoner has received a test.

"We should all be in quarantine," Trammel said. "We should not be going in to spread this monster of a virus."

Prison reform advocates, who have been pushing for the early release of elderly and severely ill inmates due to covid-19, said the death of a federal inmate illustrates why government officials need to be doing a better job of protecting people like Jones.

"The conditions and reality of incarceration make prisons and jails tinderboxes for the spread of disease," said Udi Ofer, director of the American Civil Liberties Union's Justice Division. "A prison sentence should not become a death sentence. Our leaders must immediately take steps to release those identified by the CDC as most vulnerable to covid-19. With every hour of inaction that passes, the greater the human tragedy."

EX. 2 Declaration of Dr. Golob

DECLARATION OF DR. JONATHAN LOUIS GOLOB

I, Jonathan Louis Golob, declare as follows:

1. I am an Assistant Professor at the University of Michigan School of Medicine in Ann Arbor, Michigan, where I am a specialist in infectious diseases and internal medicine. At the University of Michigan School of Medicine, I am a practicing physician and a laboratory-based scientist. My primary subspecialization is for infections in immunocompromised patients, and my recent scientific publications focus on how microbes affect immunocompromised people. I obtained my medical degree and completed my residency at the University of Washington School of Medicine in Seattle, Washington, and also completed a Fellowship in Internal Medicine Infectious Disease at the University of Washington. I am actively involved in the planning and care for patients with COVID-19. Attached as Exhibit A is a copy of my curriculum vitae.
2. COVID-19 is a novel zoonotic coronavirus that has been identified as the cause of a viral outbreak that originated in Wuhan, China in December 2019. The World Health Organization has declared that COVID-19 is causing a pandemic. As of March 12, 2020, there are over 140,000 confirmed cases of COVID-19. COVID-19 has caused over 5,000 deaths, with exponentially growing outbreaks occurring at multiple sites worldwide, including within the United States.
3. COVID-19 makes certain populations of people severely ill. People over the age of fifty are at higher risk, with those over 70 at serious risk. As the Center for Disease Control and Prevention has advised, certain medical conditions increase the risk of serious COVID-19 for people of any age. These medical conditions include: those with lung disease, heart disease, diabetes, or immunocompromised (such as from cancer, HIV, autoimmune diseases), blood disorders (including sickle cell disease), chronic liver or kidney disease, inherited metabolic disorders, stroke, developmental delay, or pregnancy.
4. For all people, even in advanced countries with very effective health care systems such as the Republic of Korea, the case fatality rate of this infection is about ten fold higher than that observed from a severe seasonal influenza. In the more vulnerable groups, both the need for care, including intensive care, and death is much higher than we observe from influenza infection: In the highest risk populations, the case fatality rate is about 15%. For high risk patients who do not die from COVID-19, a prolonged recovery is expected to be required, including the need for extensive rehabilitation for profound deconditioning, loss of digits, neurologic damage, and loss of respiratory capacity that can be expected from such a severe illness.

5. In most people, the virus causes fever, cough, and shortness of breath. In high-risk individuals as noted above, this shortness of breath can often be severe. Even in younger and healthier people, infection of this virus requires supportive care, which includes supplemental oxygen, positive pressure ventilation, and in extreme cases, extracorporeal mechanical oxygenation.
6. Most people in the higher risk categories will require more advanced support: positive pressure ventilation, and in extreme cases, extracorporeal mechanical oxygenation. Such care requires highly specialized equipment in limited supply as well as an entire team of care providers, including but not limited to 1:1 or 1:2 nurse to patient ratios, respiratory therapists and intensive care physicians. This level of support can quickly exceed local health care resources.
7. The COVID-19 virus can severely damage the lung tissue, requiring an extensive period of rehabilitation and in some cases a permanent loss of respiratory capacity. The virus also seems to target the heart muscle itself, causing a medical condition called myocarditis, or inflammation of the heart muscle. Myocarditis can affect the heart muscle and electrical system, which reduces the heart's ability to pump, leading to rapid or abnormal heart rhythms in the short term, and heart failure that limits exercise tolerance and the ability to work lifelong. There is emerging evidence that the virus can trigger an over-response by the immune system in infected people, further damaging tissues. This cytokine release syndrome can result in widespread damage to other organs, including permanent injury to the kidneys (leading to dialysis dependence) and neurologic injury.
8. There is no vaccine for this infection. Unlike influenza, there is no known effective antiviral medication to prevent or treat infection from COVID-19. Experimental therapies are being attempted. The only known effective measures to reduce the risk for a vulnerable person from injury or death from COVID-19 are to prevent individuals from being infected with the COVID-19 virus. Social distancing, or remaining physically separated from known or potentially infected individuals, and hygiene, including washing with soap and water, are the only known effective measures for protecting vulnerable communities from COVID-19.
9. COVID-19 is known to be spreading in the Seattle, Washington-area community. As of March 11, 2020 there are 270 confirmed cases of COVID-19 (an increase of 36 from March 10, 2020) and twenty-seven deaths from COVID-19 in the Seattle area. This

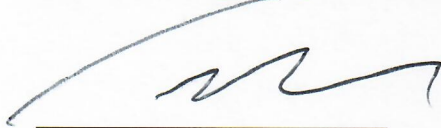
represents the largest known outbreak in the United States, and one the largest known outbreaks in the world as of March 12, 2020.

10. Nationally, without effective public health interventions, CDC projections indicate about 200 million people in the United States could be infected over the course of the epidemic, with as many as 1.5 million deaths in the most severe projections. Effective public health measures, including social distancing and hygiene for vulnerable populations, could reduce these numbers.
11. Based on the recovered genomes of the virus from the community analyzed by the Nextstrain project run by Dr. Trevor Bedford of the Fred Hutchinson Cancer Research Center in Seattle, it is known that the infection is being shared from person to person in and around Seattle. COVID-19 strains have specifically traced infection between residents and staff members of a skilled nursing facility in the Seattle area. This evidence suggests that COVID-19 is capable of spreading rapidly in institutionalized settings. The highest known person-to-person transmission rates for COVID-19 are in a skilled nursing facility in Kirkland, Washington and on afflicted cruise ships in Japan and off the coast of California. The strain of virus spreading in the Seattle area is genetically related to the strain of virus that spread readily on the cruise ships.
12. The COVID-19 outbreak in Seattle has resulted in the need for unprecedented public health measures, including multiple efforts to facilitate and enforce social distancing. These include encouraging employees to work from home, bans of gathering of more than 250 people, closure of schools, closure of the University of Washington campus in Seattle, limitations of visitation to skilled nursing facilities, and cancellation of major public events. Individuals have been asked to delay or cancel health care procedures in order to free up capacity within the system.
13. During the H1N1 influenza ("Swine Flu") epidemic in 2009, jails and prisons were sites of severe outbreaks of viral infection. Given the avid spread of COVID-19 in skilled nursing facilities and cruise ships, it is reasonable to expect COVID-19 will also readily spread in detention centers, particularly when residents cannot engage in proper hygiene and isolate themselves from infected residents or staff.
14. This information provides many reasons to conclude that vulnerable people, people over the age of 50 and people of any age with lung disease, heart disease, diabetes, or immunocompromised (such as from cancer, HIV, autoimmune diseases), blood disorders (including sickle cell disease), chronic liver or kidney disease, inherited metabolic disorders, stroke, developmental delay, or pregnancy living in an institutional setting,

such as an immigration detention center, with limited access to adequate hygiene facilities and exposure to potentially infected individuals from the community are at grave risk of severe illness and death from COVID-19.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day in March, 2020 in Ann Arbor, Michigan.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a horizontal line.

Dr. Jonathan Louis Golob

EX. 3 Declaration of Dr. Stern

Declaration of Dr. Marc Stern

I, Marc Stern, declare as follows:

1. I am a physician, board-specialized in internal medicine, specializing in correctional health care. I most recently served as the Assistant Secretary for Health Care at the Washington State Department of Corrections. I also have considerable familiarity with the immigration detention system. I served for four years as a medical subject matter expert for the Officer of Civil Rights and Civil Liberties, U.S. Department of Homeland Security, and as a medical subject matter expert for one year for the California Attorney General's division responsible for monitoring the conditions of confinement in Immigration and Customs Enforcement (ICE) detention facilities. I have also served as a consultant to Human Rights Watch in their preparation of two reports on health-related conditions of confinement in ICE detention facilities. In those capacities, I have visited and examined more than 20 ICE detention facilities and reviewed hundreds of records, including medical records and detention death reviews of individuals in ICE detention. Attached as Exhibit A is a copy of my curriculum vitae.
2. COVID-19 is a serious disease and has reached pandemic status. At least 132,758 people around the world have received confirmed diagnoses of COVID 19 as of March 13, 2020, including 1,629 people in the United States. At least 4,955 people have died globally as a result of COVID-19 as of March 13, 2020, including 41 in the United States. These numbers will increase, perhaps exponentially.
3. COVID-19 is a novel virus. There is no vaccine for COVID-19, and there is no cure for COVID-19. No one has immunity. The only way to control the virus is to use preventive strategies, including social distancing.
4. The time course of the disease can be very rapid. Individuals can show the first symptoms of infection in as little as two days after exposure and their condition can seriously deteriorate in as little as five days (perhaps sooner) after that.
5. The effects of COVID-19 are very serious, especially for people who are most vulnerable. Vulnerable people include people over the age of 50, and those of any age with underlying health problems such as – but not limited to – weakened immune systems, hypertension, diabetes, blood, lung, kidney, heart, and liver disease, and possibly pregnancy.
6. Vulnerable people who are infected by the COVID-19 virus can experience severe respiratory illness, as well as damage to other major organs. Treatment for serious cases of COVID-19 requires significant advanced support, including ventilator assistance for respiration and intensive care support. An outbreak of COVID-19 could put significant pressure on or exceed the capacity of local health infrastructure.
7. Detention facilities are congregate environments, i.e. places where people live and sleep in close proximity. In such environments, infectious diseases that are transmitted via the air or touch are more likely to spread. This therefore presents an increased danger for the spread of COVID-

19 if and when it is introduced into the facility. To the extent that detainees are housed in close quarters, unable to maintain a six-foot distance from others, and sharing or touching objects used by others, the risks of spread are greatly, if not exponentially, increased as already evidenced by spread of COVID-19 in another congregate environment: nursing homes and cruise ships.

8. Social distancing in ways that are recommended by public health officials can be difficult, if not impossible in detention facilities, placing people at risk, especially when the number of detainees is high.

9. For detainees who are at high risk of serious illness or death should they contract the COVID-19 virus, release from detention is a critically important way to meaningfully mitigate that risk. Additionally, the release of detainees who present a low risk of harm to the community is also an important mitigation strategy as it reduces the total number of detainees in a facility. Combined, this has a number of valuable effects on public health and public safety: it allows for greater social distancing, which reduces the chance of spread if virus is introduced; it allows easier provision of preventive measures such as soap for handwashing, cleaning supplies for surfaces, frequent laundering and showers, etc.; and it helps prevent overloading the work of detention staff such that they can continue to ensure the safety of detainees.

10. The release of detainees, especially those with increased health-related vulnerability, also supports the broader community because carceral and detention settings, regardless of the level of government authorities that oversee them, are integral parts of the community's public health infrastructure. Reducing the spread and severity of infection in a Federal immigration detention center slows, if not reduces, the number of people who will become ill enough to require hospitalization, which in turn reduces the health and economic burden to the local community at large.

11. As a correctional public health expert, I recommend release of eligible individuals from detention, with priority given to the elderly and those with underlying medical conditions most vulnerable to serious illness or death if infected with COVID-19.

12. Conditions related to COVID-19 are changing rapidly and may change between the time I execute this Declaration and when this matter appears before the Court. One of the most worrisome changes would be confirmation of a case of COVID-19 within the detention center, either among staff or detainees. In the event of this occurring, and eligible detainees being quarantined or isolated due to possible exposure to the virus, I recommend that the detainee(s) be tested for the virus if testing is available. Armed with the results of that test if it is available, or in the absence of other instructions from the health authority of the municipality to which they will be returning or the Washington State public health authority, those who can easily return to a home without exposure to the public, should be released to that home for continued quarantine or isolation for the appropriate time period. All others can be released to appropriate housing as directed or arranged in coordination with the relevant health authority.

13. I have reviewed Plaintiffs' complaint and on the basis of the claims presented, conclude that Plaintiffs have underlying medical conditions that increase the risk of serious illness or death if exposed to COVID-19. Due to the risks caused by the congregate environment in immigration

detention, compounded by the marked increase in risk conferred by their underlying medical conditions, I recommend their release.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this __15th__ day in March, 2020 in Tumwater, Washington.

A handwritten signature in black ink, appearing to read "Marc Stern", is written over a horizontal line.

Dr. Marc Stern

EX. 4 Affidavit of "Joan" Ruan

Affidavit

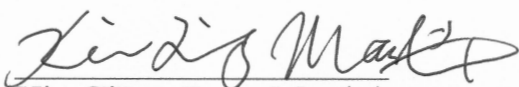
State of Wisconsin
County of Milwaukee

Before me this day personally appeared Xiu Qiong Ruan Martinie, who first being duly sworn, deposes and says:

1. I am retired and 64 years old. My current address of residence is 4955 North Lake Drive, Whitefish Bay, Wisconsin 53217-6072. I and Dr. Ruan's daughters are all U.S. citizens and U.S. residents. I am providing this information based on my personal knowledge.
2. In China, I was an ER doctor in internal medicine. I have been closely following the medical news concerning COVID-19.
3. My brother is Dr. Xiulu Ruan. He is currently a prisoner at Oakdale FCI I in Oakdale, Louisiana. His registration number is 66857-19.
4. He called me on March 30, 2020, from prison when prisoners' telephone privileges were restored for the first time in approximately a week.
5. He advised me that he has been moved from his two person cell so that cell could be used for prisoners who tested positive for the COVID-19 virus.
6. He said he is now in a windowless cell with five other prisoners. He shares bathroom and shower facilities with 200 prisoners in the building. Social distancing is impossible. Many inmates in the building have had fever, dry cough, and loss of taste and smell, all symptoms of COVID-19. Few, if any, of them have been tested for the disease. The second inmate to die of COVID-19 was located two cells away from my brother.
7. Since his cellmates and many other inmates in the building are frequently coughing, all of them have trouble getting adequate sleep, decreasing any resistance they may have to the virus. Further, he said coughing from the approximately 200 inmates in other cells is readily heard in the building.

8. Other than one mask that he was given when he was moved to the new cell, he has been received no protective equipment. Since the commissary is closed, he and other inmates are unable to buy vitamins or allergy medicine. In light of the lock down, they have no opportunity to exercise.
9. I am very concerned about my brother's health. He is 57 years old. When he entered prison, he was pre-diabetic. Since I understand he has had no care for diabetes in prison, and has been subject to great stress and a lack of sleep, nutritious food, and exercise, I believe that he is now diabetic. He has also had respiratory issues due to allergies and ischemic heart disease that has sometimes caused him to have difficulty walking due to being faint of breath. Based on my medical training, particularly my knowledge of the coronavirus, I fear for his health and his life.
10. I am willing to take custody of my brother, to care for his health, to see that he and I are isolated from others for 14 days at my own now vacant property in Wisconsin, to post a bond, and ensure his return to Federal custody after this crisis has passed.

I hereby state that the information above is true, to the best of my knowledge. I also confirm that the information here is both accurate and complete, and relevant information has not been omitted.



Xiu Qiong Ruan Martinie

Date: April 2, 2020

Signed and sworn to before me on April 2, 2020, by Xiu Qiong Ruan Martinie



Steve Martinie, Notary Public

My commission is permanent

EX. 5 Signature Bond with Amended Conditions

Docs:109-1 and 123 combined

FILED IN OPEN COURT
U.S.D.C. Atlanta

AO 98 (Rev. 12/11) Appearance Bond

MAY 20 2015

UNITED STATES DISTRICT COURT
for the

JAMES N. HATTEN, Clerk
By: *[Signature]* Deputy Clerk

United States of America
v.

Case No. 1:15-MJ-411

Xinlu Ryan M.D.
Defendant

APPEARANCE BOND

Defendant's Agreement

I, Xinlu Ryan M.D. (defendant), agree to follow every order of this court, or any court that considers this case, and I further agree that this bond may be forfeited if I fail:

- (X) to appear for court proceedings;
- (X) if convicted, to surrender to serve a sentence that the court may impose; or
- () to comply with all conditions set forth in the Order Setting Conditions of Release.

Type of Bond

- () (1) This is a personal recognizance bond.
- (X) (2) This is an unsecured bond of \$ 12,000.
- () (3) This is a secured bond of \$ _____, secured by:
 - () (a) \$ _____, in cash deposited with the court.
 - () (b) the agreement of the defendant and each surety to forfeit the following cash or other property (describe the cash or other property, including claims on it – such as a lien, mortgage, or loan – and attach proof of ownership and value):

If this bond is secured by real property, documents to protect the secured interest may be filed of record.

- () (c) a bail bond with a solvent surety (attach a copy of the bail bond, or describe it and identify the surety):

Forfeiture or Release of the Bond

Forfeiture of the Bond. This appearance bond may be forfeited if the defendant does not comply with the above agreement. The court may immediately order the amount of the bond surrendered to the United States, including the security for the bond, if the defendant does not comply with the agreement. At the request of the United States, the court

AO 98 (Rev. 12/11) Appearance Bond

Release of the Bond. The court may order this appearance bond ended at any time. This bond will be satisfied and the security will be released when either: (1) the defendant is found not guilty on all charges, or (2) the defendant reports to serve a sentence.

Declarations

Ownership of the Property. I, the defendant – and each surety – declare under penalty of perjury that:

- (1) all owners of the property securing this appearance bond are included on the bond;
- (2) the property is not subject to claims, except as described above; and
- (3) I will not sell the property, allow further claims to be made against it, or do anything to reduce its value while this appearance bond is in effect.

Acceptance. I, the defendant – and each surety – have read this appearance bond and have either read all the conditions of release set by the court or had them explained to me. I agree to this Appearance Bond.

I, the defendant – and each surety – declare under penalty of perjury that this information is true. (See 28 U.S.C. § 1746.)

Date: 5/20/2015

PZ

Defendant's signature

Surety/property owner – printed name

Surety/property owner – signature and date

Surety/property owner – printed name

Surety/property owner – signature and date

Surety/property owner – printed name

Surety/property owner – signature and date

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Approved.

Date: 5/20/15

E. Cla- [Signature]
Judge's Signature

UNITED STATES DISTRICT COURT
for the

United States of America
v.

Xiula Ruiz M.D.

Defendant

Case No. 1:15-cr-00088-MJ-411

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate federal, state, or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 42 U.S.C. § 14135a.
- (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence that the court may impose.

The defendant must appear at: _____

Place

on _____

Date and Time

If blank, defendant will be notified of next appearance.

- (5) The defendant must sign an Appearance Bond, if ordered.

ADDITIONAL CONDITIONS OF RELEASE

Upon finding that release by one of the above methods will not by itself reasonably assure the defendant's appearance and the safety of other persons or the community, IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

(7) The defendant is placed in the custody of:

Person or organization _____

Address (only if above is an organization) _____

City and state _____

Tel. No. (only if above is an organization) _____

I agree (a) to supervise the defendant in accordance with all of the conditions of release, (b) to use every effort to assure the defendant's appearance at all scheduled court proceedings, and (c) to notify the court immediately if the defendant violates any condition of release or disappears.

Signed: _____

Custodian or Proxy

Date _____

(8) The defendant must:

(X) (a) report to the U.S. Pretrial Services / U. S. Probation Office.

telephone number (404) 215-1950, no later than IMMEDIATELY

(X) (b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property:

\$10,000.00

() (c) post with the court the following proof of ownership of the designated property, or the following amount or percentage of the above-described sum

() (d) execute a bail bond with solvent sureties in the amount of \$ _____

(X) (e) maintain or actively seek employment.

() (f) maintain or commence an education program.

(X) (g) surrender any passport to: U. S. Pretrial Services

(X) (h) obtain no passport.

(X) (i) abide by the following restrictions on personal association, place of abode, or travel: reside at the residence below and DO NOT change without permission from the Court.

(X) (j) avoid all contact, directly or indirectly, with any person who is or may become a victim or potential witness in the investigation or prosecution, including but not limited to:

former employees, Dr. Chin, co-defendant, Dr. Couch, current employees.

() (k) undergo medical or psychiatric treatment: _____

() (l) return to custody each (week) day at _____ o'clock after being released each (week) day at _____ o'clock for employment, schooling, or the following purpose(s): _____

() (m) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary.

(X) (n) refrain from possessing a firearm, destructive device, or other dangerous weapons.

() (o) refrain from () any () excessive use of alcohol.

(X) (p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

(X) (q) submit to any testing required by the pretrial services office or the supervising officer to determine whether the defendant is using a prohibited substance. Any testing may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as a condition of release.

(X) (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if the pretrial services office or supervising officer considers it advisable.

(X) (s) participate in one of the following location monitoring program components and abide by its requirements as the pretrial services officer or supervising officer instructs.

(X) (i) Curfew. You are restricted to your residence every day () from 9 pm to 7 am, or (X) as directed by the pretrial services office or supervising officer; or

() (ii) Home Detention. You are restricted to your residence at all times except for employment; education; religious services; medical; substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities pre-approved by the pretrial services office or supervising officer; or

() (iii) Home Incarceration. You are restricted to 24-hour-a-day lock-down except for medical necessities and court appearances or other activities specifically approved by the court.

(X) (t) submit to the location monitoring indicated below and abide by all of the program requirements and instructions provided by the pretrial services officer or supervising officer related to the proper operation of the technology.

(X) The defendant must pay all or part of the cost of the program based upon your ability to pay as the pretrial services office or supervising officer determines.

(X) (i) Location monitoring technology as directed by the pretrial services office or supervising officer;

() (ii) Radio Frequency (RF) monitoring;

() (iii) Passive Global Positioning Satellite (GPS) monitoring;

() (iv) Active Global Positioning Satellite (GPS) monitoring (including "hybrid" (Active/Passive) GPS);

() (v) Voice Recognition monitoring.

(X) (u) My Release is to be supervised by the U.S. Pretrial Services Office and I shall follow the instructions of my supervising officer. Any travel outside the Northern District of Georgia shall be approved BEFORE leaving the district.

DISTRIBUTION: COURT DEFENDANT PRETRIAL SERVICES U.S. ATTORNEY U.S. MARSHAL

(X) (v) Report as soon as possible to the Pretrial Services Office or any Supervising Officer any contact with law enforcement personnel, including, but not limited to any arrest, questioning or traffic stop.

(X) (w) Travel is restricted to the Northern District of Georgia or (X) S.D. Ala unless the supervising officer has approved travel in advance.

(X) (x) Defendant appears at the SDCA, PTS in the S.D. Ala on mobile Ala

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (*i.e.*, in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.

PZ

Defendant's Signature

Mobile, AL

City and State

Directions to the United States Marshal

- (☒) The defendant is ORDERED released after processing.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

Date: 5/20/15

E. Clayton Scofield III

Judicial Officer's Signature

E. CLAYTON SCOFIELD III, U. S. MAGISTRATE JUDGE

Printed name and title

UNITED STATES DISTRICT COURT

Southern District of Alabama

United States of America

V.

Xiulu Ruan

AMENDED

ORDER SETTING CONDITIONS OF RELEASE

Criminal Action: 1:15CR00088-002

IT IS ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law while on release in this action.
- (2) The defendant must cooperate in the collection of a DNA sample if the collection is authorized by 42 U.S.C. § 14135a.
- (3) The defendant must immediately advise the court, defense counsel, and the U.S. attorney in writing before any change in address or telephone number.
- (4) The defendant shall appear at all proceedings, as required, and shall surrender for service of sentence imposed, as directed. The defendant shall appear at (if blank, to be notified)

_____ on _____
Place Date and Time

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- ☐ (5) The defendant promises to appear at all proceedings, as required, and to surrender for of any sentenced imposed.
- ☐ (6) The defendant executes an unsecured bond to pay the United States the sum of _____ dollars _____)
for failure to appear, as required, or for failure to surrender for service of any sentence

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions specified below:

(7) The defendant is placed in the custody of:

(Name of person or organization) _____
(Address) _____
(City and State) _____ (Tel. No.) _____

who agrees to (a) supervise the defendant in accordance with all conditions of release, (b) use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) notify the court immediately if the defendant violates any conditions of release or disappears.

Signed: _____
Custodian or Proxy Date

☒ (8) The defendant shall:

- ☒ (a) report to the U.S. Probation Office as directed.
- ☐ (b) execute a bond or an agreement to forfeit upon failing to appear, as required, the following money or designated property: _____
- ☐ (c) post with the court the following proof of ownership of the above-described property or the amount or percentage of the above-described _____
- ☐ (d) execute a bail bond with solvent sureties in the amount of \$ _____
- ☒ (e) maintain or actively seek employment.
- ☐ (f) maintain or seek an education program.
- ☒ (g) obtain no passport and/or surrender any passport to the clerk of court.
- ☒ (h) refrain from possessing a firearm, destructive device or other dangerous weapons.
- ☒ (i) abide by the following restrictions on personal association, place of abode or travel:
reside at the residence below and DO NOT change without the permission of the Court. _____
- ☐ (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim potential witness in the subject investigation or prosecution, including, but not limited to: _____
- ☐ (k) maintain residence at a halfway house as deemed necessary by probation.
- ☐ (l) refrain from ☐ any ☐ excessive use of alcohol.
- ☒ (m) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C § 802, unless prescribed by a licensed medical practitioner.

- ☒ (n) submit to any testing required by the probation office to determine whether the defendant is using a prohibited substance. Any testing may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as a condition of release. Pay all or part of testing based on your ability to pay as determined by the probation office.
- ☒ (o) participate in a program of inpatient or outpatient substance abuse/mental health treatment if deemed advisable by the probation office. Pay all or part of the treatment based on your ability to pay as determined by the probation office.
- ☐ (p) participate in one of the following location monitoring program components and abide by all requirements of the program which ☐ will ☐ will not include location monitoring or other verification system:
- ☐ (i) **Curfew.** You are restricted to your residence every day _____ to _____ or as directed by the probation office.
- ☐ (ii) **Home Detention.** You are restricted to your residence at all times except for employment, education, religious services, medical, substance abuse or mental health treatment, attorney visits, court appearances, court-ordered obligations or other activities as pre-approved by the probation office.
- ☐ (iii) **Home Incarceration.** You are restricted to 24 hour-a-day lock-down except for medical necessities and court appearances or other activities as specifically approved by the judicial officer.

Pay for all or part of the program based on your ability to pay as determined by your probation officer.

- ☐ (q) report to the U.S. Probation Office within 24 hours any contact with law enforcement personnel, including, but not limited to, arrests, questioning or traffic stops.
- ☒ (r) Have no contact with employees, witnesses or co-defendant Dr. John Couch. Also, no contact with Dr. Chin.

- ☐ (s) _____
- ☐ (t) _____
- ☐ (u) _____

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony, or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence you receive.

Federal law makes it a crime punishable by up to 10 years of imprisonment and a \$250,000 fine or both to obstruct a investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant, to retaliate or attempt to retaliate against a witness, victim or informant, or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear, as required, by the conditions of release or to surrender for the service sentence, you may be prosecuted for failing to appear or surrender, and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, you shall be not more than \$250,000 or imprisoned for not more than 10 years or both;
- (2) an offense punishable by imprisonment for a term between 5 and 15 years, you shall be fined not more than \$250,000 or imprisoned for not more than five years or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned for not more than two years or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned for not more than one year or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this action and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

P2 05/28/2015
Signature of Defendant Date
2800 Churchbell Court
Address
Mobile, AL 36695 251-753-6133
City and State Telephone

Directions to United States Marshal



The defendant is ORDERED released after processing.



The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk, U.S. Probation judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Done this 28th day of May, 2015 /s/Sonja F. Bivins

United States Magistrate Judge

DISTRIBUTION: COURT DEFENDANT U.S. PROBATION U.S. ATTORNEY U.S. MARSHAL