

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

**IN THE MATTER OF:** )  
 )  
**RELEASE OF MISDEMEANOR** )  
**DEFENDANTS PENDING INITIAL** )  
**APPEARANCE** )

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**STANDING ORDER**

Rule 5(a)(1)(A) of the Federal Rules of Criminal Procedure mandates “[a] person making an arrest within the United States must take the defendant without unnecessary delay before a magistrate judge . . . unless a statute provides otherwise.” Furthermore, Rule 5(c)(1) provides that “[i]f the defendant is arrested in the district where the offense was allegedly committed: (A) the initial appearance must be in that district.” Moreover, Rule 5(e) states “[i]f the defendant is charged with a misdemeanor only, the judge must inform the defendant in accordance with Rule 58(b)(2).”

This Court **FINDS** that law enforcement arrests, occurring within the District of North Dakota on federal lands maintained and operated by the National Park Service, National Forest Service, U.S. Fish and Wildlife Service, and Bureau of Land Management, of non-violent misdemeanor offenders, raise unique considerations. For example, individuals suspected of driving while intoxicated or suspected of possessing small quantities of controlled substances may pose a risk to the community if not arrested, yet after being arrested, these individuals would likely be released on their own recognizance at their initial appearances. However, in situations where federal law enforcement officers arrest individuals suspected of committing these types of non-violent misdemeanor offenses on nights, weekends, or holidays – when the Court is unavailable to conduct initial appearances – these individuals may unnecessarily spend multiple nights in custody awaiting their initial appearance before this Court. Therefore, to both maintain the safety of the community and to ensure that non-violent misdemeanor offenders are not unnecessarily confined prior to their initial appearance date, this Court issues the following order.

**IT IS ORDERED** that defendants arrested on federal land in the District of North Dakota, maintained and operated by the National Park Service, National Forest Service, U.S. Fish and Wildlife Service, and Bureau of Land Management, for non-violent misdemeanor offenses, may be released on their own recognizance or released to a third party in lieu of continued detention pending their initial court appearance. This Court authorizes federal law enforcement officers from these agencies to present the attached Release on Recognizance and Release to Third Party forms to suspects of non-violent misdemeanors offenses for their consideration and consent.

**IT IS FURTHER ORDERED** that if a defendant executes a Release on Recognizance or Release to Third Party form, the United States must submit to the Court the signed Release form along with the appropriate charging document the first business day following the arrest.

Dated this 19th day of, September, 2022.

/s/ Peter D. Welte  
Peter D. Welte, Chief Judge  
United States District Court

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America,	)	
	)	
Plaintiff,	)	<b>CONDITIONS FOR RELEASE ON RECOGNIZANCE AND PROMISE TO APPEAR</b>
	)	
v.	)	
	)	
_____	)	Case No.
	)	
Defendant.	)	

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The above-named Defendant is hereby eligible for release on recognizance in lieu of continued detention provided the defendant has or is:

1. Accused of a non-violent misdemeanor crime;
2. Provided adequate identification and contact information to establish identity;
3. No recent or significant history of failure to appear in court;
4. Not impaired by intoxicating substances at the time of release;
5. Agreed to all conditions of release and signed the Acknowledgment and Agreement; and
6. Approved for release on recognizance by the Office of the Assistant U.S. Attorney.

**CONDITIONS OF RELEASE AND PROMISE TO APPEAR**

The following conditions of release apply to and shall be accepted and complied with by the above-named Defendant as a condition of release from custody prior to an initial court appearance.

1. You shall appear before the U.S. District Court for the District of North Dakota at any time and date ordered for initial appearance regarding the pending matter.  

<input type="checkbox"/> 220 East Rosser Ave	<input type="checkbox"/> 655 1 <sup>st</sup> Avenue N.
Bismarck, ND 58501	Fargo, ND, 58102
2. If you fail to appear at the designated time and date or otherwise fail to comply with these conditions, a warrant may be issued for your arrest.

**ACKNOWLEDGMENT AND AGREEMENT BY DEFENDANT**

I understand and agree to the above conditions of release. I will appear at the time, date, and place indicated by forthcoming correspondence.

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Date of Signature

**CERTIFICATION OF RELEASING OFFICER**

I declare that the foregoing conditions of release were read by (or if necessary, read in the Defendant's primary language to) the Defendant being released, that the Defendant signed the Acknowledgment and Agreement, above, in my presence, and that Defendant was given a copy of this document.

\_\_\_\_\_  
Signature of Authorizing Officer

\_\_\_\_\_  
Date of Signature

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America,	)	
	)	
Plaintiff,	)	<b>CONDITIONS FOR RELEASE TO</b>
	)	<b>THIRD PARTY AND PROMISE TO</b>
v.	)	<b>APPEAR</b>
	)	
_____	)	Case No.
	)	
Defendant.	)	

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The above-named Defendant is hereby eligible for release to a responsible third-party in lieu of continued detention provided the defendant has or is:

1. Accused of a non-violent misdemeanor crime;
2. Provided adequate identification and contact information to establish identity;
3. No recent or significant history of failure to appear in court;
4. Provided for a responsible custodial adult caretaker who is not under the influence of intoxicating substances and who agrees to take custody of the Defendant for the next twelve hours;
5. Agreed to all conditions of release and signed the Acknowledgment and Agreement; and
6. Approved for third-party release by the Office of the Assistant U.S. Attorney.

**CONDITIONS OF RELEASE AND PROMISE TO APPEAR**

The following conditions of release apply to and shall be accepted and complied with by the above-named Defendant as a condition of release from custody prior to an initial court appearance.

1. You shall not consume alcohol or other intoxicating substances for a period of twelve hours from the time of your release.
2. You shall appear before the U.S. District Court for the District of North Dakota at any time and date ordered for initial appearance regarding the pending matter.

220 East Rosser Ave  
Bismarck, ND 58501

655 1<sup>st</sup> Avenue N.  
Fargo, ND, 58102

3. If you fail to appear at the designated time and dates or otherwise fail to comply with these conditions, a warrant may be issued for your arrest.

**ACKNOWLEDGMENT AND AGREEMENT BY DEFENDANT**

I understand and agree to the above conditions of release. I will appear at the time, date, and place indicated by forthcoming correspondence.

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Date of Signature

**CERTIFICATION OF RELEASING OFFICER**

I declare that the foregoing conditions of release were read by (or if necessary, read in the Defendant’s primary language to) the Defendant being released, that the Defendant signed the Acknowledgment and Agreement, above, in my presence, and that Defendant was given a copy of this document.

\_\_\_\_\_  
Signature of Authorizing Officer

\_\_\_\_\_  
Date of Signature

**ACCEPTANCE OF THIRD PARTY RELEASE**

I, \_\_\_\_\_, agree to accept full responsibility of the above-named Defendant for the next twelve hours, commencing at \_\_\_\_\_ AM/PM on \_\_\_\_\_, and ending at \_\_\_\_\_ AM/PM on \_\_\_\_\_.

During this period the above-named Defendant shall remain in my immediate presence and will not be permitted to operate a motor vehicle or to consume any intoxicating substances.

I furthermore state that I will report any violations of this agreement to the Court, the Office of the Assistant U.S. Attorney, and the citing federal law enforcement agency without undue delay.

**ACKNOWLEDGMENT AND AGREEMENT BY THIRD PARTY**

I understand and agree to the above conditions.

\_\_\_\_\_  
Signature of Responsible Party

\_\_\_\_\_  
Date of Signature

**CERTIFICATION OF RELEASING OFFICER**

I declare that the foregoing conditions of release were read by (or if necessary, read in the Responsible Party’s primary language to) the Responsible Party, that the Responsible Party signed the Acknowledgment and Agreement, above, in my presence, and that the Responsible Party was given a copy of this document.

\_\_\_\_\_  
Signature of Authorizing Officer

\_\_\_\_\_  
Date of Signature