

In the United States District Court
for the District of Puerto Rico

United States of America,

vs.

Aniano Miranda-Bonilla,
Defendant.

Criminal Number 05-417 (PG/MDM)

Motion requesting waiver of defendant's presence at preliminary revocation hearing

To the Honorable Marshal D. Morgan
United States Magistrate Judge
For the District of Puerto Rico

Mr. Miranda's preliminary revocation hearing is scheduled for March 20, 2020, at 1:30 p.m. Mr. Miranda wishes to hold his preliminary revocation hearing. However, as explained in our motion requesting a bail hearing,¹ due to Mr. Miranda's health conditions (including hypertension and diabetes), and the current Coronavirus outbreak in Puerto Rico and elsewhere, the defense understands it is prudent to avoid transporting Mr. Miranda to court at this time.² Any transportation from Bayamon 705 to the courthouse would expose Mr. Miranda to numerous people and surfaces that may carry the virus, such as other inmates from other institutions (or other

¹ Docket 2296 at pp. 3-7.

² The BOP suspended all visits and inmate transfers for 30 days. Transfer for court hearings, however, may be allowed. https://www.bop.gov/resources/news/20200313_covid-19.jsp.

buildings in the same institution), new arrestees held in the cell block, U.S. Marshals,³ the undersigned,⁴ and courthouse personnel.

The defendant's presence is not required at a preliminary revocation hearing by the Federal Rules of Criminal Procedure. *See* Fed. R. Crim. P. 43. Rule 32.1 requires that the defendant be afforded the "opportunity to appear at the hearing and present evidence," but does not require the defendant's presence. Fed. R. Crim. P. 32.1(b)(1)(B)(ii). Because the rules do not require Mr. Miranda's presence at the preliminary revocation hearing, a signed waiver of presence⁵ is not required in order to hold the hearing without him.

For these reasons, the defense requests that Mr. Miranda's presence not be required at the preliminary revocation hearing scheduled for March 20, 2020, at 1:30 p.m.

I certify that on this date I electronically filed the present notice with the Clerk of Court using the CM/ECF system which will send notification to the parties of record.

Respectfully submitted.

In San Juan, Puerto Rico, this 18th day of March, 2020.

ERIC ALEXANDER VOS
Chief Defender

³ A deputy U.S. Marshal in Washington, D.C. tasked with handling inmates in the cell block and in courtrooms tested positive to Coronavirus. <https://www.law360.com/articles/1254639/dc-court-marshal-tests-positive-for-covid-19>.

⁴ Inmates in Santa Clara, California were quarantined after being in contact with a public defender who tested positive. <https://www.mercurynews.com/2020/03/13/coronavirus-inmates-quarantined-at-santa-clara-county-jail-after-defense-attorney-tests-positive/>.

⁵ Because Bayamon 705 is closed to all visits, including legal visits, the undersigned is not able to provide a waiver signed by Mr. Miranda.

District of Puerto Rico

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