IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
v.	:	**CRIMINAL NOS. 15-562 & 23-421**
DEREK GEORGE SPENCER	:	

GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION FOR EARLY TERMINATION OF SUPERVISED RELEASE

Defendant Spencer seeks termination of supervised release after serving a portion of the five-year and three-year periods imposed by the Courts in his two federal criminal convictions. He offers no reason that he is unduly harmed in any manner by serving the full sentences imposed by the Courts. The sentences of supervised release were necessary and appropriate, and these sentences should not be altered. The motions should be denied.

The defendant engaged in an extensive criminal fraud scheme that spanned nearly two years. During that time, the defendant defrauded TD Bank by obtaining the identifying information of actual TD Bank customers to create falsified identification documents. The defendant provided the falsified identification documents to co-conspirators so that the co-conspirators could make unauthorized withdrawals from the TD Bank customers' accounts. In that matter, case number 15-562, the defendant was sentenced to a total term of 48 months of imprisonment, which represented a significant variance below the advisory Sentencing Guidelines range. The defendant was also directed to serve a term of supervised release of five years and pay restitution to TD Bank in the amount of $122,700.

While serving his sentence of incarceration in case number 15-562, the defendant engaged in conduct that resulted in his conviction in case number 23-421. Specifically, the defendant and his significant other paid bribes to a public officer at FCI-Petersburg to allow the defendant to smuggle prohibited items into the prison. The defendant was sentenced to 26 months of incarceration, followed by three years of supervised release. Although the defendant was convicted and sentenced for this conduct in the Eastern District of Virginia, supervision was subsequently transferred to the Eastern District of Pennsylvania.

Supervised release in case number 15-562 began on February 17, 2021; however, this period of supervised release was tolled during the defendant's incarceration in case number 23-421. As a result, supervision in case number 15-562 is not set to expire until September 2, 2027. Supervised release in case number 23-421 began on July 23, 2023, and is set to expire on July 23, 2026.

The defendant now seeks termination of supervised release, principally so that he may relocate outside of the district or otherwise travel with his elderly mother, without the need to seek authorization in advance.[1] The defendant has not, however, specified his intended destination, nor does he indicate whether the relocation is permanent or

[1] The United States Probation Office initially opposed the defendant's motions. However, on January 5, 2026, Officer Fitzpatrick informed government counsel that the United States Probation Office would no longer oppose the defendant's motions.

intermittent travel. Yet, the defendant concludes that the preauthorization process required by his supervised release hinders his ability to do so. The defendant does not address the fact that the courts and the probation office have repeatedly afforded him permission to travel abroad with his mother or others, nor does he address the fact that permission for each trip has been granted expeditiously by the courts upon submission of a motion and a copy of his travel reservations. The defendant also fails to address the fact that, to the extent that the defendant intends to relocate with his mother to another district, supervision may be transferred to the area of his new residence—just as supervision in case number 23-421 was originally transferred to this district.

The defendant does not set forth a persuasive basis for alteration of this Court's sentence. The applicable statute, 18 U.S.C. § 3583(e), provides district courts with authority to grant early termination of supervised release if, in the discretion of the Court, such relief is appropriate and in the interests of justice. That section provides that

> [t]he court may, after considering the factors set forth in Section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7) – (1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.

18 U.S.C. § 3583(e).

It is the defendant's burden, "as the party receiving the benefit of early termination, to demonstrate that such a course of action is justified." *United States v. Weber*, 451 F.3d 552, 559 n.9 (9th Cir. 2006). It "logically follows that the burden of ultimate persuasion should rest upon the party attempting to adjust the sentence." *United States v. McDowell*, 888 F.2d 285, 291 (3d Cir. 1989). In assessing whether the defendant has met that burden, this Court must consider:

> (1) the nature and circumstances of the offense and the defendant's history and characteristics, 18 U.S.C. § 3553(a)(1);
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> (2) the need to afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide him with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner, § 3553(a)(2)(B)-(D);
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> (3) the kinds of sentence and sentencing range established for the defendant's crimes, § 3553(a)(4)(A);
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> (4) pertinent policy statements issued by the United States Sentencing Commission, § 3553(a)(5);
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> (5) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct, § 3553(a)(6); and
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> (6) the need to provide restitution to any victims of the offense, § 3553(a)(7).

"After considering these factors, the court may provide relief only if it is satisfied that early termination is warranted by the defendant's conduct and is in the interest of justice." *United States v. Melvin*, 978 F.3d 49, 52 (3d Cir. 2020). "The expansive phrases 'conduct of the defendant' and 'interest of justice' make clear that a district court enjoys discretion to consider a wide range of circumstances when determining whether to grant early termination." *Id.* (quotation marks omitted). Furthermore, "[d]istrict courts are not required to make specific findings of fact with respect to each of these" specified § 3553(a) "factors; rather, a statement that [the district court] has considered the statutory factors is sufficient." *Id.* at 52-53 (citation omitted).

In commentary to the Sentencing Guidelines added November 1, 2025, the Sentencing Commission added:

> When determining whether to terminate the remaining term of supervised release . . . the court may wish to consider such factors as:
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> (i) any history of court-reported violations over the term of supervision;
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> (ii) the ability of the defendant to lawfully self-manage (e.g., the ability to problem-solve and avoid situations that may result in a violation of a condition of supervised release or new criminal charges);
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> (iii) the defendant's substantial compliance with all conditions of supervision;
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> (iv) the defendant's engagement in appropriate prosocial activities and the existence or lack of prosocial support to remain lawful beyond the period of supervision;
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> (v) a demonstrated reduction in risk level or maintenance of the lowest category of risk over the period of supervision; and
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> (vi) whether termination will jeopardize public safety, as evidenced by the nature of the defendant's offense, the defendant's criminal history, the defendant's record while incarcerated, the defendant's efforts to reintegrate into the community and avoid recidivism, any statements or information provided by the victims of the offense, and other factors the court finds relevant.

USSG § 5D1.4(b) app. note 1(B). The commentary adds: "When determining whether to modify any condition of supervised release that would be relevant to a victim or to terminate the remaining term of supervised release, the Commission encourages the court, in coordination with the government, to ensure that any victim of the offense is reasonably, accurately, and timely notified, and provided, to the extent practicable, with an opportunity to be reasonably heard, unless any such victim previously requested not to be notified." § 5D1.4 app. note 2.

The Court "need not find that an exceptional, extraordinary, new, or unforeseen circumstance warrants early termination of a term of supervised release before granting a motion under 18 U.S.C. § 3583(e)(1)." *Melvin*, 978 F.3d at 53. However, the Third Circuit stated:

> We think that *[g]enerally*, early termination of supervised release under § 3583(e)(1) will be proper only when the sentencing judge is satisfied that new or unforeseen circumstances warrant it. . . . That is because, if a sentence was "sufficient, but not greater than necessary" when first pronounced, 18 U.S.C. § 3553(a), we would expect that something will have changed in the interim that would justify an early end to a term of supervised release. But we disavow any suggestion that new or unforeseen circumstances must be shown.

Id. (citation and quotation marks omitted).

Here, there has been no change in circumstances, and accordingly, termination of supervised release is not advised. The defendant's compliance with the terms of supervised release is merely what is expected. *See, e.g.*, *United States v. Guilliatt*, 2005 WL 589354, at *1 (E.D. Pa. 2005) ("The conduct cited by defendant in support of his Petition is commendable. However, it is nothing more than what is required under the terms of defendant's probation."). If simple compliance with the terms of the court's supervision were sufficient to justify early termination, "the exception would swallow the rule." *Id.*; *see also United States v. Lohman*, 2007 WL 1430282, at *1 (E.D. Wis. 2007) (holding that if simple compliance were sufficient for early termination, "every defendant who avoided revocation would be eligible for early termination").

It bears emphasis that the term of supervised release is an important component of the defendant's sentence. In *Gall v. United States*, 552 U.S. 38, 48 (2007), the Supreme

Court explained at length that a term of supervised release is no trifling matter; it is a form of punishment that involves restrictions on liberty. For this reason, habitual post-sentencing alteration of a term of supervised release would defeat the goals of transparency and truth in sentencing that animated the Sentencing Reform Act of 1984, which implemented determinate federal sentencing while also creating the provisions for supervised release. Such a result would, in part, offend the expectations of victims of crime, who heard the sentence imposed only to learn later that the offender does not have to serve the full term.

In seeking early termination, the defendant asserts that he has behaved appropriately while on supervised release, but as noted, that is what the law expects. However, it cannot be ignored that the defendant committed (and was convicted of) a new federal offense while serving his sentence of incarceration in case number 15-562. Moreover, as part of the agreed-upon statement of offense in case number 23-421, the defendant acknowledged facts establishing that he had opened four credit cards under a fictitious name. *See United States v. Spencer*, 3:22-CR-5, ECF No. 35 at 7. If the terms of supervised release applied during the defendant's period of incarceration, this too would have violated the terms of his supervised release. Thus, while the defendant is technically in compliance with the terms of his supervised release, the defendant's conduct since sentencing in case number 15-562 is not without blemish.

The defendant asserts that the conditions of supervised release place an undue burden on his ability to relocate or travel to care for his elderly mother. But the courts have authorized the defendant to travel abroad on four occasions over the past two years: in November 2023, February 2024, October 2024, and September 2025. Moreover, each request was quickly granted on motion by the defendant's attorney with a copy of the defendant's travel reservations. The burden placed upon the defendant to obtain court authorization for his international travel has proven to be minimal, and the defendant has not articulated how or why this process has prevented him from traveling with his mother. While the defendant asserts that he has been unable to respond to family emergencies due to the process, the defendant provides no supporting details, nor any explanation as to why the current authorization process for international travel has proved too cumbersome.

Supervision of the defendant remains necessary. A critical piece of the defendant's sentence—and a special condition of his supervised release in 15-562—is the requirement that the defendant pay restitution to the victim. The defendant was ordered to pay a total of $122,700 in restitution, an amount for which he and his co-conspirators are jointly and severally liable. As a condition of supervised release, the defendant is required to make a minimum monthly restitution payment of $25. While the defendant has made those minimum payments (albeit on a somewhat irregular schedule), the defendant continues to owe over $121,000 in restitution to the victim.

Section 3553(a)(7) highlights the need for a defendant's sentence to be structured in a way to provide restitution to any victims of the offense. As a defendant's ability to pay restitution is significantly curtailed during a period of incarceration, supervised release is the critical piece of a sentence designed to ensure that restitution is provided to victims of crime. Where the defendant has made only $850 in restitution payments over the nearly six years since restitution was first ordered, continued supervised release to ensure that restitution is paid is essential.

This is particularly true, given the defendant's history with restitution payments following his first federal conviction—a conviction for bank fraud in the Eastern District of Virginia. In that matter, the defendant had been charged with bank fraud for his role in a counterfeit payroll check scheme. The defendant was convicted in 2001 and subsequently ordered to pay $88,859.37 in restitution. Court records show that the defendant paid the mandatory $100 special assessment and only $2,605 in restitution during his term of supervised release, which terminated on June 24, 2007. After the termination of supervised release, the defendant made one additional payment (for only $60) towards his outstanding restitution obligation during the next two decades. Although the government successfully collected additional funds from the defendant through automated enforcement mechanisms,[2] the defendant continues to owe $60,004.98 in restitution to those victims. Given this history, continued supervision is necessary to ensure that the defendant continues to make payments toward restitution.

To justify this motion, the defendant alludes to the fact that he seeks to relocate outside of the district with his mother and that his mother once sought to relocate to Jamaica. Notably, the defendant does not seek, as an alternative in this motion, for

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[2] The government successfully collected $12,457.27 from the defendant through the Treasury Offset Program and $25 from the defendant's BOP wages.

supervision to be transferred to a different district. The conclusion to be drawn is that the defendant seeks termination of supervised release so that he can relocate, at least part, to Jamaica. Relocating to Jamaica is inconsistent with maintaining the full-time employment that is necessary for the defendant to continue to make payments towards restitution. Moreover, a move abroad may impact the ability of the United States to collect on the restitution order: while the United States would retain the ability to enforce the remaining restitution, the parameters of the collection process available to the United States would depend upon the law of the foreign jurisdiction.

The defendant engaged in wanton criminal conduct, defrauding a financial institution by misappropriating the identities of its customers and then bribing a public officer while incarcerated for the fraud scheme. Restitution is a critical portion of the defendant's sentence and, while he has made the required minimal payments, the vast majority of his restitution obligation remains outstanding. The defendant's history of restitution payments in a prior federal fraud matter raises a significant concern that, without supervised release, the defendant may cease to make restitution payments. In contrast, the defendant seeks to terminate supervised release to allow him greater ability to travel or relocate with his mother, actions that may also complicate his ability to make payments towards the restitution owed. In these circumstances, supervision by the Probation Office for five-year and three-year periods to assure rehabilitation and compliance with the law seems the absolute minimum the law should require. That is what the Courts decided when they imposed sentence, and there is no reason to reconsider that judgment now.

For these reasons, the motion for early termination of supervised release should be denied.

Respectfully submitted,

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/s Kara Traster
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CERTIFICATE OF SERVICE

I hereby certify that this pleading has been served on the Filing User identified below through the Electronic Case Filing (ECF) system:

/s Kara Traster
Kara Traster
Assistant United States Attorney

DATED: January 16, 2026.