IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

v.

Case No.: CRC-14-00216FAES

Division: 1 (J. Lewis)

CURTIS J. REEVES,
Defendant.
_____ /

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO MODIFY CONDITIONS OF PRETRIAL RELEASE

COMES NOW, the Defendant, CURTIS J. REEVES, by and through undersigned counsels, submits the following Memorandum of Law in Support of Motion to Modify Conditions of Pretrial Release, and states as follows:

Having received the transcript of the July 11, 2019 hearing before this Court, Undersigned counsels are constrained to address and clarify a point raised by the State. At the hearing, the State erroneously contended that Judge Siracusa made a finding that Mr. Reeves posed a danger to the community. *Tr. of July 11, 2019 Hearing*, at 14-18. The State's assertion, however, is contradicted by multiple pieces of evidence.

First, the State misconstrues the language of Judge Siracusa's Amended Order, and then urges the Court to rely upon that erroneous interpretation to conclude that a finding of dangerousness has already been rendered. A reading of the entire Amended Order, however, yields the inescapable conclusion that so such finding was ever made.

At the hearing on July 11, 2019, the State focused heavily on paragraph one of page two of the Amended Order. *Tr. of July 11, 2019 Hearing*, at 14-18. In that portion of the Amended Order,

Judge Siracusa wrote that the Court had "few concerns" regarding Mr. Reeves' presence in the community. The Second District confirmed this latter interpretation of that paragraph. *Reeves v. Nocco*, 141 So.3d 775, 779 (Fla. 2d DCA 2014). The Second District specifically wrote that: "[t]he [lower] court concluded that it would have 'few concerns' that [Mr. Reeves] would be a danger to society if released pretrial." *Id.* at 779.

In any event, a full review of the Amended Order supports the conclusion that Judge Siracusa had "few concerns" regarding Mr. Reeves being authorized to be in the community. Both in the same paragraph pointed to by the State (i.e. page two, paragraph one) and the next paragraph, Judge Siracusa recognized that the Defense had presented "voluminous" proof of Mr. Reeves' law-abiding history and the absence of any danger. That proof established that Mr. Reeves was a decorated 27-year law enforcement veteran and former chief of security for Busch Gardens. He was family-oriented, went to church, and had no history of substance abuse or mental illness.

All of these conclusions were supported by testimony of credible third-parties, including: a retired law enforcement officer who served with Mr. Reeves on the Tampa Police Department Tactical Response Team (i.e. SWAT team) (Thomas Depolis, Vol. I, at 87-123); former Busch Gardens coworkers and friends of Defendant who detailed, among other things, his calm demeanor (Mr. and Mrs. Scalise, Vol. II, at 129-69; *see also* at 154-56); and Mr. Reeves' daughter, who testified to his family-oriented lifestyle (Jennifer Shaw, Vol. II, at 170-206). The State presented no evidence refuting the Defense's proof on these matters.

Second, Judge Siracusa's conditions of release – when read and considered in their entirety - encapsulate a conclusion that Mr. Reeves was <u>not</u> a danger to the community. This latter conclusion is readily discernable from the fact that Mr. Reeves has been authorized to go to the grocery store, attend religious services, and undergo medical treatment with <u>no limitations</u> on

frequency, *length*, and *location* thereof.

For example: under Judge Siracusa's Amended Order, Mr. Reeves can visit a Publix in Tampa for 3 hours, receive acupuncture treatment in Gulfport for 4 hours, and then attend a prayer session at his church for 5 hours. The next day, Mr. Reeves, pursuant to the conditions of the Amended Order, could lawfully visit a Winn Dixie in Polk County for 4 hours, and then undergo physical therapy in Hernando County for 5 hours. And so on.

Given that the Amended Order authorizes Mr. Reeves to interact with other individuals who are buying groceries, receiving medical treatment, and practicing their religion, it is clear that the Court *never* made a finding of "danger to the community" that would prevent him from visiting a public park, an Applebee's, or a shopping mall. The Court knew in July 2014, when the Amended Order was issued, that the same type of people that buy groceries, receive medical treatment, and attend religious services also take walks in public parks, visit the mall, and go to restaurants.

A neutral application of the law thus supports and compels the conclusion that the safety of the community will be preserved if Mr. Reeves' home confinement requirement is lifted.

Third, the State also misconstrued what the Second District concluded in its ruling. *Tr. of July 11, 2019 Hearing*, at 14-15, 27-28. A close read of *Reeves v. Nocco*, 141 So.3d 775 (Fla. 2d DCA 2014) demonstrates that the Second District **never** concluded that the safety of the community required that Mr. Reeves must be on home confinement.

The procedural history of the case makes clear that after Judge Siracusa imposed pretrial detention, the Defendant sought appellate review. The Second District reversed and ruled that Judge Siracusa: "made an error of law and that [he] did not realize [he] had the discretionary power to grant release on the terms and conditions it announced." *Reeves*, at 776; *see also Reeves*, at 779

("As we explained at the beginning of this opinion, it appears that the circuit court denied release merely because it believed it had no discretion to do otherwise if the State met its burden. All of the usual factors that would be used to authorize pretrial release in this context were clearly established by Mr. Reeves at this hearing. The record suggests no special circumstances or other factors that would justify a reasoned, discretionary decision to deny pretrial release.") The Second District only commented that Judge Siracusa's proposed conditions of release *could have been* reasonable given his factual findings. *Reeves*, at 779. The Second District **never** ruled that Mr. Reeves had to be on home confinement.

Given all of the above, this Court can grant this Motion without modifying Judge Siracusa's findings. As established, Judge Siracusa was sufficiently confident that the safety of the community would be preserved if Mr. Reeves visited grocery stores, medical offices, and places of worship without limitation as to time, place, lengthy, or frequency. In any event, as the State conceded at the July 11th hearing, Tr. at 21, this Court retains the discretion to modify or amend any conditions of pretrial release. *See also* Fla.R.Crim.P.3.131(d)(2) (requiring that the State show "good cause" for modification of bail conditions, but making no such requirement when the defendant makes such an application).

It bears further noting that State never sought appellate review of the Amended Order allowing Mr. Reeves to visit grocery stores, medical offices, and attend religious services at any place, time, and frequency. The State's arguments that Mr. Reeves poses some sort of danger under Judge Siracusa's conditions should be rejected.

WHEREFORE, the Defendant, Curtis Reeves, respectfully requests that this Motion be granted, and for such other, further and different relief as necessary and appropriate.

Date: July 25, 2019

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Richard Escobar, Esq.
FBN: 375179

/s/ Dino M. Michaels, Esq.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of this has been furnished by United States Postal Service to: the Office of the State Attorney for the Sixth Judicial Circuit, P.O. Box 5028, Clearwater, Florida 33758, this 25h day of July, 2019.

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