

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

DEC 04 2019

Margaret Botkins, Clerk
Cheyenne

GENERAL ORDER AMENDING STANDARD

CONDITIONS OF SUPERVISION

This matter is before the Court *sua sponte* to amend and addresses recent changes in the law affecting Standard Condition Twelve of the Standard Conditions of Supervision. Standard Condition Twelve sets forth a “risk-notification” condition that allows probation officers to determine whether a criminal defendant poses a risk to another person as well as require the defendant to notify that person about the risk. U.S.S.G. § 5D1.3(c)(12) and October 13, 2016 Order Establishing Mandatory and Standard Conditions of Supervised Release and Probation (D. Wyo. 2016). In *United States v. Cabral*, 926 F.3d 687, 691 (10th Cir. 2019) the Tenth Circuit held this “risk-notification” condition as written and without limitations, constituted an improper delegation of judicial power to the probation officer. Therefore, to remedy this concern it is hereby

ORDERED, the United States Probation Office (USPO) shall cease enforcing the “risk-notification” condition as written and set forth in this Court’s October 13, 2016 General Order for those Defendants already under supervision. It is further

ORDERED that the risk-notification condition (Standard Condition Twelve) is hereby retroactively amended as follows:

If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may, **after obtaining Court approval**, require the defendant to notify that person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.

It is further

ORDERED that this amended Standard Condition Twelve shall remain a standard condition for current and future Defendants under supervision along with all other Mandatory and Standard Conditions as imposed or modified. It is further

ORDERED that the Mandatory Conditions of Supervised Release, Mandatory Conditions of Probation and Standard Conditions of Supervision as now amended are attached hereto.

Dated this 4th day of December, 2019.



Scott W. Skavdahl
Chief U.S. District Court Judge

MANDATORY CONDITIONS OF SUPERVISED RELEASE

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

The defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable information indicates a low risk of future substance abuse by the defendant.

If a fine is imposed and has not been paid upon release to supervised release, the defendant shall adhere to an installment schedule to pay that fine.

The defendant shall (A) make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and (B) pay the assessment imposed in accordance with 18 U.S.C. § 3013. If there is a court-established payment schedule for making restitution or paying the assessment (see 18 U.S.C. § 3572(d)), the defendant shall adhere to the schedule.

The defendant shall submit to the collection of a DNA sample at the direction of the United States Probation Office if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).

* If the defendant is required to register under the Sex Offender Registration and Notification Act, the defendant shall comply with the requirements of that Act

** The defendant who is convicted for a domestic violence crime as defined in 18 U.S.C. § 3561(b) for the first time shall attend a public, private, or private non-profit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is available within a 50-mile radius of the legal residence of the defendant.

* Sex offenders only

** For first time domestic violence offenders only

MANDATORY CONDITIONS OF PROBATION

The defendant shall not commit another federal, state or local crime.

For a felony, the defendant shall (A) make restitution, (B) work in community service, or (C) both, unless the court has imposed a fine, or unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the discretionary conditions set forth under 18 U.S.C. § 3563(b).

The defendant shall not illegally possess a controlled substance.

The defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least two periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable information indicates a low risk of future substance abuse by the defendant.

The defendant shall (A) make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and (B) pay the assessment imposed in accordance with 18 U.S.C. § 3013. If there is a court-established payment schedule for making restitution or paying the assessment (see 18 U.S.C. § 3572(d)), the defendant shall adhere to the schedule.

The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

If the court has imposed a fine, the defendant shall pay the fine or adhere to a court-established payment schedule.

The defendant shall submit to the collection of a DNA sample at the direction of the United States Probation Office if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).

* If the defendant is required to register under the Sex Offender Registration and Notification Act, the defendant shall comply with the requirements of that Act.

** For a domestic violence crime as defined in 18 U.S.C. § 3561(b) by a defendant convicted of such an offense for the first time, the defendant shall attend a public, private, or non-profit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is available within a 50-mile radius of the legal residence of the defendant.

*** Sex offenders only**

**** For first-time domestic violence offenders only**

STANDARD CONDITIONS OF SUPERVISION

- (1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of the time the defendant was sentenced or released from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- (2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- (3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- (4) The defendant shall answer truthfully the questions asked by the probation officer.
- (5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- (6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.
- (7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or the job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- (8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- (9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.

(10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers).

(11) The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

(12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may, after obtaining Court approval, require the defendant to notify that person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.

(13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.