

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

UNITED STATES OF AMERICA,

v.

Case No. 2:24mj211

BRAD KENNETH SPAFFORD,

Defendant.

**RESPONSE TO MOTION TO REVOKE RELEASE ORDER**

Comes now the Defendant, Brad Kenneth Spafford, by and through undersigned counsel and objects to the Government's Motion for Revocation of Release Order (ECF 19). The defense respectfully requests that the court order Mr. Spafford's immediate release from custody on the conditions set by the Honorable United States Magistrate Judge Lawrence R Leonard. Mr. Spafford was charged by a single count criminal complaint with Possession of a Firearm in Violation of the National Firearms Act, in violation of 26 U.S.C. § 5861(d). (ECF 3, 4). He has been held in custody since his arrest.

On December 30, 2024 Judge Leonard presided over the preliminary hearing and detention hearing. Judge Leonard found probable cause to support the complaint. There was no allegation or evidence offered by the government that Mr. Spafford used the gun, which was the object of the criminal complaint, to commit a crime or that he ever threatened to use that gun in the commission of any crime. Judge Leonard next carefully considered the factors set out in 18 U.S.C. § 3142(g) and ordered that Mr. Spafford be

released with conditions, including house arrest with electronic monitoring, third-party custody, and an unsecured bond of \$25,000. (ECF 17).

“In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S., 739, 755 (1987).

Under the Bail Reform Act and the Constitution, an accused individual has a right to be released pending trial absent extraordinary circumstances. See 18 U.S.C. § 3142.

Accordingly, Judge Leonard considered the enumerated factors and determined that conditions could be imposed that would ensure that Mr. Spafford would attend court as required and would not constitute a danger to the community. Mr. Spafford is 36 years old. He is married and lives with his wife and two children in a home which they recently purchased. He has worked at his current place of employment for nine years. He has no criminal record and no history of substance abuse or mental illness.

The government argues that Mr. Spafford should be detained because he poses a danger to the community in spite of the fact that the government has been investigating and carefully watching Mr. Spafford for approximately two years through the use of a confidential human source who was a friend and confidant of Mr. Spafford. During all of that time, there is no evidence or allegation that Mr. Spafford committed or attempted to commit any act of violence. There was no evidence introduced that Mr. Spafford is a danger to the community and in fact, the evidence showed he had never used any explosive device, never threatened to use one, and never threatened any individual or group. Additionally, there was no evidence that Mr. Spafford had the means or

equipment necessary to explode the devices. The evidence was that professionally trained explosive technicians had to rig the devices to explode them.

- I. There was no evidence that Mr. Spafford did anything other than make some ill-advised comments about the government and political leaders that are not illegal and are protected by the 1<sup>st</sup> Amendment. Using a likeness of a political leader as a target at a shooting range is a common practice and not a reason to incarcerate someone.
- II. The United States' position that Mr. Spafford is a danger is rank speculation and fear mongering. There is not a shred of evidence in the record that Mr. Spafford ever threatened anyone and the contention that someone might be in danger because of their political views and comments is nonsensical. In fact, the evidence proved that Mr. Spafford is not a danger but a hard-working family man with no criminal record.

This is not a presumption case. Mr. Spafford's pretrial risk assessment score places him in Category 1 out of 5 risk categories. The pretrial service report recommended release (ECF 14). Judge Leonard imposed significant conditions for Mr. Spafford's release including that he be confined in his mother's home with electronic monitoring and only allowing him to leave that home for limited and specific purposes.

The defense requests that the court deny the government's motion to revoke release and act expeditiously to release Mr. Spafford.

Respectfully submitted,

/s/

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Lawrence H. Woodward, Jr., Esquire  
Virginia State Bar #21756  
Attorney for the Defendant  
Brad Kenneth Spafford  
Ruloff, Swain, Haddad, Morecock,  
Talbert & Woodward, P.C.  
317 30<sup>th</sup> Street  
Virginia Beach, Virginia 23451  
Telephone Number: (757) 671-6000  
Facsimile Number: (757) 671-6004  
Email address: [lwoodward@srgslaw.com](mailto:lwoodward@srgslaw.com)

/s/

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Jeffrey A. Swartz, Esq.  
Virginia State Bar # 28143  
Attorney for the Defendant  
Brad Kenneth Spafford  
Swartz, Taliaferro, Swartz & Goodove, P.C.  
220 W Freemason Street  
Norfolk, Virginia 23510  
(757) 275-5000 Office  
(757) 626-1003 Facsimile  
[jswartz@stsg-law.com](mailto:jswartz@stsg-law.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of December 2024, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to:

E. Rebecca Gantt, Esquire  
Assistant United States Attorney  
United States Attorney' Office  
101 West Main Street, Suite 8000  
Norfolk, VA 23510  
Phone: (757) 441-6331  
Fax: (757) 441-6689  
Email: [rebecca.gantt@usdoj.gov](mailto:rebecca.gantt@usdoj.gov)

/s/

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Lawrence H. Woodward, Jr., Esquire  
Virginia State Bar #21756  
Attorney for the Defendant  
Brad Kenneth Spafford  
Ruloff, Swain, Haddad, Morecock,  
Talbert & Woodward, P.C.  
317 30<sup>th</sup> Street  
Virginia Beach, Virginia 23451  
Telephone Number: (757) 671-6000  
Facsimile Number: (757) 671-6004  
Email address: [lwoodward@srgslaw.com](mailto:lwoodward@srgslaw.com)

/s/

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Jeffrey A. Swartz, Esq.  
Virginia State Bar # 28143  
Attorney for the Defendant  
Brad Kenneth Spafford  
Swartz, Taliaferro, Swartz & Goodove, P.C.  
220 W Freemason Street  
Norfolk, Virginia 23510  
(757) 275-5000 Office  
(757) 626-1003 Facsimile  
[jswartz@stsg-law.com](mailto:jswartz@stsg-law.com)