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Attorney for Defendant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)	CASE NO. CR-10-183 N-BLW
)	
Plaintiff,)	
)	DEFENDANT’S EX PARTE MOTION
vs.)	FOR MEDICAL TRANSPORT
)	
LARRY FAIRFAX,)	
)	
Defendant.)	
_____)	

COMES NOW, the Defendant, LARRY FAIRFAX, by and through his attorney of record, John E. Miller, and hereby moves the Court for an Order for Medial Transport authorizing and directing the U.S. Marshall’s office to make a custodial transport of the defendant from custody and return to custody at the Bonner County Jail to an office visit with the defendant’s physician, Thomas Beaton, M.D.

DEFENDANT’S EX PARTE MOTION
FOR MEDICAL TRANSPORT

This motion is made, based and supported by the record, court file, and on the grounds provided in the accompanying affidavit of counsel.

DATED this 14th day of September 2010.

THE LAW OFFICE OF JOHN E. MILLER

/s/

John E. Miller
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of September, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System who will serve the foregoing on all appearing parties, including Traci J. Whelan, Assistant United States Attorney.

S/

John E. Miller
Attorney for Defendant

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Attorney for Defendant Fairfax

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)	
)	Case No. CR 10-183 N-BLW
Plaintiff,)	
)	AFFIDAVIT IN SUPPORT OF MOTION
vs.)	FOR MEDICAL TRANSPORT
)	
LARRY FAIRFAX;)	
)	
Defendant.)	
_____)	

STATE OF IDAHO)
 : ss.
County of Kootenai)

John E. Miller, being first duly sworn on oath deposes and states:

1. I am counsel of record for the above-named Defendant.
2. I am informed and believe that the defendant has a medical condition, menieres disease, that requires specialized treatment, an injection directly into the inner

AFFIDAVIT IN SUPPORT OF MOTION FOR
MEDICAL TRANSPORT

ear. I am further informed and believe that the treatment cannot be provided by the medical staff at the Bonner County Jail. The defendant has been suffering from the effects of the disease while incarcerated with disabling dizzy spells that incapacitate him and cause him to fall. The defendant desires to obtain this specialized treatment from his physician, Thomas Beaton, M.D., who is familiar with the defendant's condition and who has successfully provided the specialized treatment in the past.

3. Counsel has discussed with both the U.S. Marshall's office and Assistant U.S. Attorney Traci J. Whelan, the potential of a U.S. Marshal assisted/supervised transport from custody at the Bonner County Jail, commencing at a time and date selected and approved by the U.S. Marshall, to allow the defendant to obtain the treatment from Dr. Beaton. Defense counsel has discussed the logistics of the process with the U.S. Marshall's office, and the U.S. Attorney's office. Both the U.S. Attorney's office and the U.S. Marshall's office have acknowledged the feasibility of the process, have voiced no objections thereto and have indicated that they will not voice objections to this request.

4. The defendant asks the Court to issue an Order to allow the U.S. Marshall to transport the defendant,, from and back to the Bonner County Jail to obtain the treatment upon the following conditions:

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MEDICAL TRANSPORT

- a. The U.S. Marshall's office shall provide the transportation of the defendant from Bonner County Jail to the doctor and his return to the jail facility at the approved times and under the custodial procedures required by and as determined by the U.S. Marshall. The transport shall occur within a reasonable time to alleviate the defendant's suffering.
- b. The defendant shall at all times during this transport and treatment be under the custody, control and direction of the U.S. Marshall's personnel.
- c. The defendant must be returned to Bonner County Jail immediately following the treatment.

FURTHER YOUR AFFIANT SAYTH NOT

DATED this 14th day of September 2010.

/s/

JOHN E. MILLER

SUBSCRIBED AND SWORN to before me this 14th day of September 2010.

/s/

Notary Public for the State of Idaho
Residing: Coeur d'Alene, ID
My Commission Expires: June 10, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on September __, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Traci J. Whelan, Assistant United States Attorney; and all other parties appearing.

S/ _____
John E. Miller
Attorney for Defendant

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