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Attorney for Defendant

U.S. DISTRICT COURT
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RECEIVED
CAMEL CH. BUREAU
CLEER, IDAHO

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF IDAHO**

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

DUSTIN HOLM,)

Defendant.)

Case No. 03-220-E-BLW

**MOTION TO MODIFY CONDITIONS
OF DETENTION**

Dustin Holm, by and through his attorney, Kelly Kumm, moves this court for an order requiring that the Order of Detention entered by Magistrate Mikel Williams on February 24, 2004 be amended to require the defendant to be incarcerated in a correctional facility that has a reasonable proximity to the United States District Courthouse in Pocatello, Idaho where trial is scheduled to be held.

This motion is made on the grounds and for the reasons that:

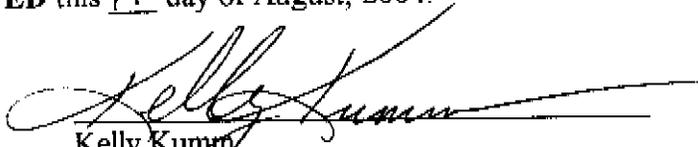
1. Plea negotiations between the parties have deteriorated and a trial is likely;

2. The defendant is currently incarcerated in the Ada County Jail in Boise, Idaho, some two hundred and forty (240) miles distant from his attorney's office and the location of trial;

3. The distance between counsel and the defendant violates the Sixth Amendment by denying the defendant effective representation and preventing the defendant from adequately assisting counsel in preparing for trial; and

4. The U.S. Marshal's Service in Pocatello advises that no local correctional facilities which contract with the United States government for the detention of defendants awaiting trial are willing to make their facilities available to the defendant. If this is the case, and the defendant is required to remain in Ada County, counsel would be unable to effectively represent the defendant and adequately prepare for trial thereby requiring a motion to withdraw as his attorney.

RESPECTFULLY SUBMITTED this 17th day of August, 2004.

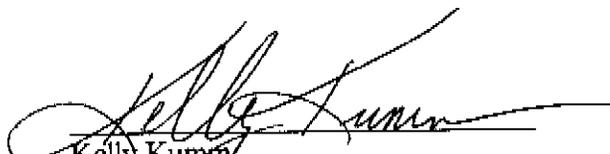

Kelly Kumm
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of August, 2004, I caused a true and correct copy of the foregoing **MOTION TO MODIFY CONDITIONS OF DETENTION** to be delivered to the party named below, as follows:

Jack B. Haycock
United States Attorney
801 E. Sherman
Pocatello, ID 83201
Facsimile (208) 478-4175

By U. S. Mail
 By Facsimile
 By Hand Delivery


Kelly Kumm