

SERCARZ & RIOPELLE, LLP

810 SEVENTH AVENUE, SUITE 620

NEW YORK, NEW YORK 10019

1-212-586-4900

FACSIMILE 1-212-586-1234

www.sercarzandriopelle.com

ROLAND G. RIOPELLE
MAURICE H. SERCARZ*

ROBERT CALIENDO
GIULIANA E. GRAHAM

*ADMITTED IN NY & NJ

May 26, 2015

BY ECF

Hon. Eric N. Vitaliano
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. DiScala, et al.,
Cr-14-399 (ENV)

Dear Judge Vitaliano:

I represent Defendant Kyleen Cane in the above-referenced matter. I write to request that Ms. Cane's bail conditions be modified to permit her to travel to Edinburgh, Scotland, from August 14-24, 2015, so that Ms. Cane may assist her son Stephen when he moves into his dormitory to begin his freshman year at the University of Edinburgh. I have previously been in contact with the United States Attorney's Office concerning this application, and I am advised that the United States Attorney's Office opposes it. I have also been in touch with Ms. Cane's Pretrial Services Officer in Las Vegas, Kamuela Kapanui, and Officer Kapanui has informed me that he has no objection to this application. If the Court wishes to confirm this, it may contact Officer Kapanui at (702) 464-5638. I respectfully request that the Court grant this application for the following reasons.

A. Prior Bail Proceedings

As the Court knows, Ms. Cane was arrested in Las Vegas on July 17, 2014. At that time, she was released by the United States District Court for the District of Nevada on a personal recognizance bond, and she was directed to surrender her passport to Officer Kapanui. Ms. Cane was also directed to report to the United States District Court for the Eastern District of New York on August 15, 2014. A copy of the District of Nevada's Order Setting Conditions of Release and related materials is attached as Exhibit A. A copy of a receipt indicating that Ms. Cane surrendered her passport on July 18, 2014, as she was directed to do, is attached as Exhibit B.

Following the entry of the order attached as Exhibit A, the United States Attorney's Office for the Eastern District of New York requested that Ms. Cane move up the date for her

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appearance in the Eastern District to July 29, and Ms. Cane agreed to do so. When she reported as required to the Eastern District of New York on July 29, 2014, the terms of Ms. Cane's release were modified to require her to sign a \$1,000,000 personal recognizance bond, co-signed by two others, and to post real property as collateral to secure payment of the bond. Ms. Cane promptly satisfied these terms. A copy of the Confession of Judgment by which Ms. Cane posted the property to secure her bond is attached as Exhibit C, for the Court's information.

The present terms of Ms. Cane's bail permit her to travel freely in the continental United States, provided that she gives Officer Kapanui notice before she travels outside of Nevada, California, New York and New Jersey. Ms. Cane owns a plane, and she regularly flies her plane without violating any term of her bail.

Ms. Cane has now been fully compliant with the terms of her bail since her arrest in July 2014. She traveled to New York when directed to do so, and appeared in this district early when asked by the United States Attorney's Office to do so. She surrendered her passport, posted a bond co-signed by others, and posted property when directed to do so. Since being released on bail, Ms. Cane has flown her plane frequently, and has traveled within the United States from time to time, without violating her bail. Given her track record, Officer Kapanui is fully supportive of Ms. Cane's application to travel to Edinburgh, Scotland.

B. The Merits of the Application

Ms. Cane's youngest son, Stephen, has been accepted as a student at the University of Edinburgh, which is one of the world's leading universities. Stephen has never lived away from home before, and Ms. Cane is concerned – as any parent would be – about getting Stephen moved into his new school, which is a very great distance from the home he shares with her. Whether they admit it or not, every 18 year old freshman can use a little help when he or she begins the process of growing up by moving out, and Ms. Cane would simply like to give her son the help that all parents give their children when they move away to go to college.

In addition, Stephen, who suffers from scoliosis, will be undergoing spinal surgery in June. His medical condition will make his need for help moving into college more acute. Stephen may not be physically able to move furniture without help from his parents, and Ms. Cane would like to provide him with that help.

Ms. Cane requests that the Court permit her to assist her son in moving into his new school, as virtually all parents do. If permitted to do so, Ms. Cane would travel to Scotland on approximately August 14, and return to Las Vegas on approximately August 24, 2015.

Ms. Cane's passport has expired since she surrendered it. Therefore, she respectfully requests that the Court enter an order that permits her to retrieve her expired passport from Officer Kapanui, renew it, and return it to Officer Kapanui when she receives her new passport. She requests that the Court permit her to retrieve her new passport from Officer Kapanui shortly before she is expected to travel to Scotland, and to surrender her passport to Officer Kapanui when she returns from Scotland on approximately August 24, 2015.

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There is absolutely no reason to believe Ms. Cane will try to flee the prosecution in this case. Ms. Cane has family (including her second son, Joshua), property and friends here, primarily in the District of Nevada and in California. There is no evidence to suggest Ms. Cane has any family, friends or property overseas, which might encourage her to flee. Her entire life is here.

Ms. Cane has done nothing since her arrest 10 months ago to suggest that she is likely to flee. She has not violated her bail in any respect, as she continues to work to prepare her defense. In addition, Ms. Cane has enrolled in a graduate program in microbiology, to begin a new career when this case is over. Beginning the process of changing careers – including tuition payments and extensive new academic work – is hardly evidence of an intention to flee the pending prosecution.

If for some reason Ms. Cane fails to return to the United States on August 24, she can certainly be extradited from the United Kingdom. We will be happy to provide the government with a detailed itinerary for Ms. Cane's trip to Scotland, so that Officer Kapanui can monitor Ms. Cane's whereabouts while she is in Scotland.

For all these reasons, I respectfully request that the Court order Officer Kapanui to return Ms. Cane's expired passport to her so that she can renew her passport; that it order Ms. Cane to surrender her renewed passport to Officer Kapanui when she receives it; and that the Court direct Officer Kapanui to return Ms. Cane's renewed passport to her so that she can travel to Scotland from approximately August 14 to August 24, 2015, for the purpose of assisting her son Stephen to move to Edinburgh, Scotland to pursue his studies at the University of Edinburgh.

If the Court is inclined to grant this application, it may do so by executing this letter at the "So Ordered" signature line below.

Respectfully submitted,



Roland G. Riopelle

Enc.

The Defendant, Kyleen Cane, having made an application for an order directing Officer Kapanui to deliver to the defendant her expired passport for the purpose of renewing it, for an order directing her to return her renewed passport to Officer Kapanui after she receives it, and for an order directing Officer Kapanui to return the defendant's renewed passport to her for the purpose of permitting her to travel to Edinburgh, Scotland from approximately August 14 to August 24, 2015 in order to assist her son Stephen Cane to move into the University of Edinburgh where he will be studying, and the United States Attorney's Office having objected to this application, and Pretrial Services Officer Kamu Kapanui having no objection to the application, and good cause appearing to grant the application,

IT IS ORDERED THAT:

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1) Pretrial Services Officer Kamu Kapanui shall return the defendant's expired passport to her so that she can use it to apply for a renewed passport;

2) Upon receipt of her renewed passport, the defendant shall surrender it to Pretrial Services Officer Kapanui;

3) The defendant shall provide Officer Kapanui with a detailed itinerary for her travel to Edinburgh, Scotland from approximately August 14, 2015 to August 24, 2015;

4) 48 hours before the defendant is scheduled to leave for Edinburgh, Scotland, Officer Kapanui shall return the defendant's renewed passport to her; and

5) Within 48 hours of her return from Edinburgh, Scotland, the defendant shall return her renewed passport to Officer Kapanui.

IT IS SO ORDERED:

HON. ERIC N. VITALIANO
U. S. D. J.