

condition lessens.” *Hutchins*, 298 F. Supp. 3d at 1208 (granting motion to remove GPS monitoring due in part to the defendant’s history of compliance).

Instead, the Government’s response is premised on stale information that it raised more than three years ago and at sentencing more than two years ago (Opp’n 2-4); arguments that Mr. Lindberg’s counsel rebutted, Sentencing Tr. 78:18-81, Dkt. No. 281. For example, as Mr. Lindberg’s counsel explained at sentencing, the payments to two foreign women were for conceiving children through *in vitro* fertilization. *Id.* at 79:5-80:8. Those payments do not present any risk of flight. Just the opposite. They show Mr. Lindberg’s commitment to growing a family in the United States.

In any event, the Government’s task is not to prove Mr. Lindberg’s flight risk in *2019 or 2020*; it is to establish that risk *today*. The relevant evidence fails to show that GPS monitoring is still the least restrictive further condition necessary to reasonably assure his future appearance.

Mr. Lindberg lives in a permanent home in Tampa with his significant other and five of his children—all under the age of three, and two under the age of one. Declaration of Robert Gaddy at ¶ 5 (Exhibit 1). He regularly sees his other children in Tampa when they visit him on a monthly basis. He is also expecting another child in March of 2023. *Id.*

The Government appears to suggest that there is something improper about the fact that Mr. Lindberg now lives in Tampa (Opp’n 4); but any such assertion lacks merit. Mr. Lindberg sought and received approval from the United States Probation Office before moving to Tampa.

The Government also makes much of Mr. Lindberg’s access to a boat and an airplane, but that access raises no concerns either. The boat is held in a trust set up by the boat’s lender, the trustee controls all operations of the boat, and the trustee is well aware of the conditions of Mr. Lindberg’s release and will not approve any move outside the Middle District of Florida. Gaddy

Decl. ¶ 6. As for the plane, it is on lease from Bank of America, which is likewise aware of the conditions of Mr. Lindberg's release and will only authorize travel that complies with all laws. Gaddy Decl. ¶ 7.

Moreover, as this Court found previously, Mr. Lindberg is an invested leader in his businesses, and he would lose the ability to help run and manage those businesses were he to flee. Sentencing Tr. 82:4-7.

In the end, the Government essentially resorts to impermissible burden-shifting—arguing that *Mr. Lindberg* “has not shown that it would be unduly burdensome” to continue to wear an ankle bracelet. Opp'n 5. But the Bail Reform Act does not impose that burden on Mr. Lindberg. Rather, the Act requires the *Government* to prove by a preponderance of the evidence that continued GPS monitoring is the “least restrictive further condition” that “will reasonably assure” Mr. Lindberg's appearance. 18 U.S.C. § 1342(c)(1)(B); *see also Hutchins*, 298 F. Supp. 3d at 1207-08. Simply put, the Government has failed to meet its burden, as all of the relevant facts establish that GPS monitoring is no longer the least restrictive further condition necessary to ensure Mr. Lindberg's future appearance—as evidenced by Mr. Lindberg's compliance with all the conditions of release for more than three years, his appearance at every court hearing, and his voluntary self-reporting on time to the Bureau of Prisons.

Moreover, any suggestion that GPS monitoring for lengthy periods of time is not burdensome would be inaccurate. The ankle bracelet that Mr. Lindberg must wear is heavy and uncomfortable. It must be worn 24 hours a day, 365 days a year. It must be charged frequently or an alarm goes off (including during the middle of the night). And it affects every aspect of Mr. Lindberg's life—from bathing to sleeping.

CONCLUSION

In short, the Government fails in meeting its burden of establishing that continued GPS monitoring is the “least restrictive further condition” that “will reasonably assure” Mr. Lindberg’s appearance. Mr. Lindberg has complied with every condition of his release for more than three years. He has attended every court date and reported to federal prison on time. He also has strong family ties and business interests that weigh against any risk of flight. In light of these facts, and in light of the fact that the United States Probation Office does not object to the removal of GPS monitoring, Mr. Lindberg respectfully requests that the Court grant Mr. Lindberg’s Motion to remove the requirement of GPS monitoring from the conditions of his pretrial release.

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Respectfully Submitted,

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