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No. 21-770 & 21-58

In the  
**United States Court of Appeals  
for the Second Circuit**

**UNITED STATES OF AMERICA,**

Appellee,

v.

**GHISLAINE MAXWELL,**

Appellant.

On Appeal from the United States District Court  
for the Southern District of New York, 20-CR-330 (AJN)

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**Appellant Ghislaine Maxwell's Appendix to the  
Renewed Motion for Pretrial Release**

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Respectfully submitted,

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## CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing was e-filed  
this 17th day of May, 2021.

/s/ David Oscar Markus  
David Oscar Markus

Exhibit A

App. 86

Second Circuit Court Order

April 27, 2021

21-58-cr (L), 21-770-cr  
United States v. Maxwell

# United States Court of Appeals

FOR THE  
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 27<sup>th</sup> day of April, two thousand twenty-one.

PRESENT: PIERRE N. LEVAL,  
RAYMOND J. LOHIER, JR.,  
RICHARD J. SULLIVAN,  
*Circuit Judges.*

United States of America,

*Appellee,*

v.

21-58-cr (L)  
21-770-cr

Ghislaine Maxwell, AKA Sealed Defendant 1,

*Defendant-Appellant.*

Defendant-Appellant Ghislaine Maxwell appeals from orders of the District Court entered December 28, 2020 and March 22, 2021, which denied her renewed requests for bail pending trial. See Dkts. 1, 20. Upon due consideration, it is hereby ORDERED that the District Court's orders are AFFIRMED and that Appellant's motion for bail, or in the alternative, temporary pretrial release pursuant to 18 U.S.C. § 3142(i), Dkt. 39, is DENIED. During oral argument, counsel for Appellant expressed concern that Appellant was improperly being deprived of sleep while incarcerated. To the extent Appellant seeks relief specific to her sleeping conditions, such request should be addressed to the District Court.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk of Court

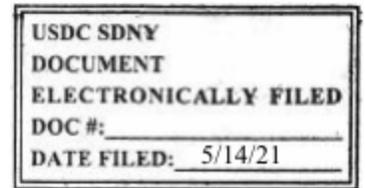
  
Catherine O'Hagan Wolfe

Exhibit B

Doc. 282

Lower Court Order

May 14, 2021



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

United States of America,

–v–

Ghislaine Maxwell,

Defendant.

20-CR-330 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On April 29, 2021, counsel for Ghislaine Maxwell wrote to the Court requesting that the Court address her sleeping conditions, with particular emphasis on counsel’s representation, unsupported by affidavit or other factual showing, that guards are shining a flashlight in Maxwell’s eyes every 15 minutes at night. Dkt. No. 256. Defense counsel claims that the flashlight surveillance in Maxwell’s eyes is disrupting her sleep, which in turn is impacting her ability to prepare for and withstand trial. The Court sought more information by ordering the Government to confer with legal counsel for the Bureau of Prisons and to respond to certain questions. Dkt. No. 257. In response, the Government states that MDC staff conduct flashlight checks of all inmates as a matter of course. Dkt. No. 270. As reported by the Government, inmates housed with cell mates in the Special Housing Unit are checked with flashlights every 30 minutes. Inmates housed with others in the general population are checked multiple times per night at regular intervals. The Government further reports that to conduct the checks, flashlights are pointed at the ceiling of the cell to confirm that the inmate is present, breathing, and not in distress. As the Government explains, there are a number of neutral reasons why BOP’s flashlight checks of Maxwell are relatively more frequent than those of other inmates, including that Maxwell is housed alone, the nature of the charges, and the potential stress for inmates that

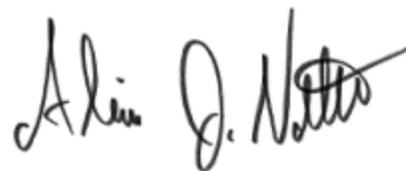
can arise in high-profile cases. The MDC has determined that these factors necessitate more frequent safety and security checks. The Government also indicates that the prohibition on eye masks is a generally applicable policy, but that Maxwell, like other inmates, may use other non-contraband items to cover her eyes.

To the extent that Maxwell's April 29, 2021 letter asks the Court to override BOP's determination as to the frequency of appropriate safety and security check procedures, that request is denied as factually unsubstantiated and legally unsupported. Certainly nothing in the record plausibly establishes that current protocols interfere with Maxwell's ability to prepare for her trial and communicate with her lawyers. Defense counsel's May 7, 2021 letter, Dkt. No. 272, describes generalized grievances but makes no additional specific and supported application for relief. Nevertheless, the Court urges the MDC to consider whether sleep disruption for pre-trial detainees can be reduced. The Court also admonishes the MDC and the Government to continue to ensure that Maxwell is subjected to only those security protocols that BOP determines are necessary for her safety and security, based upon neutral and applicable factors, and consistent with the treatment of similarly situated pre-trial detainees.

The Government shall provide a copy of this Order to the Warden and General Counsel for the MDC.

SO ORDERED.

Dated: May 14, 2021  
New York, New York



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ALISON J. NATHAN  
United States District Judge

Exhibit C

Doc. 256

Ghislaine Maxwell letter regarding conditions at Metropolitan  
Detention Center  
April 29, 2021

# LAW OFFICES OF BOBBI C. STERNHEIM

• Main  
• Cell  
• Fax

33 West 19th Street - 4th Floor  
New York, New York 10011

April 29, 2021

Honorable Alison J. Nathan  
United States District Judge  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *United States v. Ghislaine Maxwell*  
S2 20 Cr. 330 (AJN)

Dear Judge Nathan:

During oral argument of Ghislaine Maxwell's bail appeal before the Circuit, Ms. Maxwell's appellate counsel expressed concern that she was improperly deprived of sleep while detained in the MDC, an issue that has been raised in filings before this Court. In its brief denial of her appeal, the Circuit stated: "To the extent Appellant seeks relief specific to her sleeping conditions, such request should be addressed to the District Court." *See* Exhibit A. We press our concerns regarding disruption of Ms. Maxwell's sleep and the deleterious effect sleep deprivation is having on her health, well-being, and ability to prepare for and withstand trial.

Ms. Maxwell continues to be disrupted throughout the night by guards shining a flash/strobe light into her cell, claiming that her breathing must be checked. The myth that Ms. Maxwell's conditions of confinement are related to her being a suicide risk was laid to rest during the oral argument: There is nothing to support that contrived claim. In fact, Ms. Maxwell is classified with the standard CC1-Mh designation: inmate with no significant mental health care. (*See* Dkt. 159 at 3.)

Contrary to the report that Ms. Maxwell "wears an eye mask when she sleeps" (Dkt. 196 at 4), an item neither available for purchase through MDC commissary nor provided to her, she resorts to using a sock or towel to cover her eyes in an awkward attempt to shield them from disrupting illumination every 15 minutes. Last night, she was confronted by MDC staff due a visible bruise over her left eye. The "black eye" is depicted in Exhibit B. Despite 24/7 camera surveillance (except when guards elect to exert authority in an intimidating way off-camera, as they did in Saturday's bathroom incident), no guard addressed the bruise until Ms. Maxwell, who has no mirror, caught a reflection of her aching eye in the gleam of a nail clipper. At that point, MDC staff confronted Ms. Maxwell regarding the source of the bruise, threatening to place her in the SHU if she did not reveal how she got it. While Ms. Maxwell is unaware of the cause of the bruise, as reported to medical and psych staff, she has grown increasingly reluctant to report information to the guards for fear of retaliation, discipline, and punitive chores. However, there is concern that the bruise may be related to the need for Ms. Maxwell to shield her eyes from the lights projected into her cell throughout the night.

The MDC routinely places inmates in the SHU if they have engaged in physical altercation with other inmates or to protect inmates who are the subject of abuse. It would be ironic if the MDC follows through with its threat to place Ms. Maxwell in the SHU: It would signal that Ms. Maxwell needs protection from the very staff so intent on protecting her, since she has no contact with anyone but staff.

As suggested by the Circuit, we ask the Court to address Ms. Maxwell's sleeping conditions by directing the MDC to cease 15-minute light surveillance of Ms. Maxwell or justify the need for the disruptive flashlight surveillance.

Very truly yours,

*Bobbi C. Sternheim*

BOBBI C. STERNHEIM

Encs.

cc: All counsel of record

21-58-cr (L), 21-770-cr  
United States v. Maxwell

# United States Court of Appeals

FOR THE  
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 27<sup>th</sup> day of April, two thousand twenty-one.

PRESENT: PIERRE N. LEVAL,  
RAYMOND J. LOHIER, JR.,  
RICHARD J. SULLIVAN,  
*Circuit Judges.*

United States of America,

*Appellee,*

v.

21-58-cr (L)  
21-770-cr

Ghislaine Maxwell, AKA Sealed Defendant 1,

*Defendant-Appellant.*

Defendant-Appellant Ghislaine Maxwell appeals from orders of the District Court entered December 28, 2020 and March 22, 2021, which denied her renewed requests for bail pending trial. See Dkts. 1, 20. Upon due consideration, it is hereby ORDERED that the District Court's orders are AFFIRMED and that Appellant's motion for bail, or in the alternative, temporary pretrial release pursuant to 18 U.S.C. § 3142(i), Dkt. 39, is DENIED. During oral argument, counsel for Appellant expressed concern that Appellant was improperly being deprived of sleep while incarcerated. To the extent Appellant seeks relief specific to her sleeping conditions, such request should be addressed to the District Court.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk of Court




EXHIBIT B

Exhibit D

Doc. 270

Government's Response to Ghislaine Maxwell's conditions  
at Metropolitan Detention Center

May 5, 2021



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

May 5, 2021

**BY ECF**

The Honorable Alison J. Nathan  
United States District Court  
Southern District of New York  
United States Courthouse  
40 Foley Square  
New York, New York 10007

**Re: *United States v. Ghislaine Maxwell, 20 Cr. 330 (AJN)***

Dear Judge Nathan:

The Government respectfully submits this letter in response to the Court's Order dated April 29, 2021, which directed the Government to confer with legal counsel at the Metropolitan Detention Center ("MDC") regarding the use of flashlights in security checks at MDC. (Dkt. No. 257). The Government has conferred with legal counsel at MDC in accordance with the Court's Order, and legal counsel provided the information set forth herein.

MDC staff conduct flashlight checks at night as a matter of course throughout the facility for the safety and security of the inmates at the institution. During these flashlight checks, MDC staff point a flashlight at the ceiling of each cell to illuminate the cell sufficiently to confirm that the inmate is present in the cell, breathing, and not in distress. MDC staff conduct flashlight checks every 30 minutes for inmates housed in the Special Housing Unit (the "SHU") and conduct flashlight checks of inmates in the general population multiple times each night at irregular intervals, but at an average of at least once per hour.

With respect to the defendant, MDC staff conduct flashlight checks every fifteen minutes because the defendant, while not on suicide watch, is on an enhanced security schedule. That is

Page 2

because MDC has identified a number of factors that raise heightened safety and security concerns with respect to this defendant, including: (1) the nature of the charges, (2) the potential stress for inmates that can arise in high-profile cases, and (3) the need to ensure the defendant's safety while she is incarcerated in a cell by herself—a housing determination made by MDC staff based on various factors, including the defendant's expressed concern for her safety if she were to be housed in the general population.<sup>1</sup>

As to the Court's question whether the defendant can be provided with "appropriate eye covering," MDC legal counsel has informed the Government that the defendant cannot be provided with an eye mask. Eye masks are not available for purchase in commissary and are not issued to inmates and, therefore, are considered contraband. The defendant is permitted, however, to use non-contraband items to cover her eyes at night.

Should the Court have any questions or require any additional details regarding this topic, the Government will promptly confer with legal counsel at MDC and provide additional information.

Respectfully submitted,

AUDREY STRAUSS  
United States Attorney

By: s/

\_\_\_\_\_  
Assistant United States Attorneys  
Southern District of New York

Cc: Defense Counsel (By ECF)

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<sup>1</sup> The MDC has determined the defendant's current housing assignment based, in part, on her concerns about being housed in the general population and as an alternative to her being housed in the SHU. By contrast, in the SHU, most inmates have a cellmate which provides an additional check should something go wrong or should an inmate need medical attention in the middle of the night.

Exhibit E

Doc. 272

Ghislaine Maxwell's Reply regarding conditions at  
Metropolitan Detention Center  
May 7, 2021

# LAW OFFICES OF BOBBI C. STERNHEIM

• Main  
• Cell  
• Fax

33 West 19th Street - 4th Floor  
New York, New York 10011

May 7, 2020

Honorable Alison J. Nathan  
United States District Court  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *United States v. Ghislaine Maxwell*  
S2 20 Cr. 330 (AJN)

Dear Judge Nathan:

Once again, the government reports second- and third-hand information from the MDC, the reliability of which becomes increasingly questionable. In its May 5<sup>th</sup> letter regarding the MDC's flashlight security checks of Ms. Maxwell (Dkt. 270), the government contradicts a previous report that Ms. Maxwell "has an eye mask." This allegation, immediately refuted by her counsel, was a focus of the Second Circuit's questioning during oral argument of Ms. Maxwell's bail appeal. Now, the government reports that the MDC cannot provide an eye mask to Ms. Maxwell and that an eye mask is considered contraband. This alone is a basis for the Court to question the veracity of representations made by the MDC.

To justify the 15-minute flashlight surveillance that is causing Ms. Maxwell's disruptive sleep and sleep deprivation, the MDC claims that Ms. Maxwell is on "an enhanced security schedule." The reasons given to support the need for "heightened safety and security concerns" with respect to Ms. Maxwell are spurious. They single out Ms. Maxwell to the detriment of other pretrial detainees who face even more serious charges and potential stress (*i.e.*, defendants charged with murder and terrorism offenses subjected to life sentences without possibility of release and the death penalty) and who are incarcerated in cells by themselves. The MDC attempts to shift the focus of its conduct by claiming that it is responsive to Ms. Maxwell's "expressed concern for her safety if she were housed in general population."

The MDC should fact check its records before making bold assertions. The Intake Screening Form completed by Ms. Maxwell upon entry to the MDC on July 6, 2020 posed the following question: "Do you know of any reason why you should not be placed in general population?" Ms. Maxwell responded "No." It is the MDC, not the inmate, who makes the determination regarding general population or degree of segregation. The Intake Screening

Form listed “psych alerts,” which are baseless, and “broad publicity,” which is accurate and concerns risk of harm to Ms. Maxwell via violence, extortion, and feed information to the press by other inmates. Ironically, it is the MDC staff who leaked to the press that Ms. Maxwell had been vaccinated.

Further, in her desire to interact and be helpful with other inmates, Ms. Maxwell completed two programs to assist other inmates- (1) to qualify as a teacher aide and offered to help update MDC learning curriculum and (2) to qualify as companion for suicide watch. Her de facto solitary confinement prevents her from utilizing that training to assist others.

Ms. Maxwell’s segregation and surveillance go way beyond the concerns posited by the MDC. It is not only other inmates who may harm Ms. Maxwell, but also the very guards tasked to her security detail who have already done harm to her: failing to provide adequate food or feed her at all in a 20-hour period, damaging her discovery hard drive, seizing her confidential legal documents, erasing her CorrLinks emails, physically abusing her. The list goes on and on. In an effort to advocate in compliance with BOP procedure, she has filed hundreds of BP-8s, BP-9s and BP-10s only to receive a response that is less than helpful, or in the absence of any response was told the form was either lost or never filed. Each and every day of her detention, she is guarded by at least three officers who watch and record, by writing and via a handheld camera, her every move: when she eats, showers, cleans her clothes, brushes her teeth, etc. As the guards feverishly write while observing Ms. Maxwell during videoconferencing with counsel, it appears that they go beyond their routine continual 15-minute reporting.

Further, her non-legal phone calls are monitored in real time. It was the staff who confronted Ms. Maxwell about the death of someone whom she was close to within hours on her learning about it, information derived from her phone calls. Ms. Maxwell does not discuss personal matters with MDC guards and did not provide information concerning the passing of someone quite dear to her. It was psychological services who confronted her regarding that information, which could only have been obtained through telephone surveillance. We invite the Court and government to review the calls which contradict the unsupported allegation that Ms. Maxwell is a flight risk and support her family strong ties. Her monitored communication with family and friends evidences her strong ties in the United States, her strong desire to return to her family in the United States, and her intention to establish her innocence at her trial in the United States.

In the face of the Epstein's death on the BOP's watch, the MDC would not risk a repeat of the debacle that occurred in the MCC. There can be no doubt that the MDC was following directives from Attorney General William Barr and the Director of the BOP in determining that Ms. Maxwell should not be placed in general population, not Ms. Maxwell. Regardless, the MDC would never risk security to Ms. Maxwell or the institution by placing her in general population, knowing the difficulties it would face in protecting Ms. Maxwell from assault and extortion by other inmates given that they do not protect her from physical abuse by guards. But that decision does not justify the degree to which the MDC overmanages Ms. Maxwell's detention and its detrimental effect on her health, well-being, and ability to prepare for trial.

We have repeatedly expressed our concern for Ms. Maxwell's health and the impact her conditions of confinement are having on her health and well-being, her ability to prepare for trial, and the overall impact the severe conditions will have on her stamina to withstand trial, which we moved to the fall. With each passing day, it becomes increasingly more obvious that Ms. Maxwell's extreme conditions of detention will not be improved and health deteriorate commensurate with the unprecedented conditions of confinement unparalleled in the MDC.

Very truly yours,

*Bobbi C. Sternheim*  
BOBBI C. STERNHEIM

cc: Counsel for all parties