

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 21-770/21-58 Caption [use short title]

Motion for: Renewed Motion for Pretrial Release

Set forth below precise, complete statement of relief sought:

Ghislaine Maxwell renews her motion for pretrial release or in the alternative, remand for an evidentiary hearing.

United States of America v. Ghislaine Maxwell

MOVING PARTY: Ghislaine Maxwell OPPOSING PARTY: United States of America

- Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: David Oscar Markus OPPOSING ATTORNEY: [Redacted], AUSA

[name of attorney, with firm, address, phone number and e-mail]

Markus/Moss PLLC United States Attorney's Office, So. Dist. of NY
40 NW Third Street, PH 1, Miami, Florida 33128 One Saint Andrew's Plaza, New York, New York 10007

Court- Judge/ Agency appealed from: Alison J. Nathan, Southern District of New York

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below? Has this relief been previously sought in this court? Requested return date and explanation of emergency:

Opposing counsel's position on motion: Unopposed Opposed Don't Know

Does opposing counsel intend to file a response: Yes No Don't Know

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date:

Signature of Moving Attorney:

/s/ David Oscar Markus Date: 5/17/2021 Service by: CM/ECF Other [Attach proof of service]

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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)

---

**Appellant Ghislaine Maxwell's Renewed  
Motion for Pretrial Release**

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### **Appellant Ghislaine Maxwell's Renewed Motion for Bond**

Although this Court denied Ghislaine Maxwell's motion for bond (*see* Ex. A, Order, April 27, 2021), it appeared concerned with the conditions of her confinement during oral argument and instructed Ms. Maxwell that “[t]o the extent Appellant seeks relief specific to her sleeping conditions, such request should be addressed to the District Court.” (*Id.*).

Ms. Maxwell did just that, explaining again to the trial judge the grueling conditions of her confinement, which includes shining a flashlight in Ms. Maxwell's eyes every 15 minutes, over the past 318 days in solitary confinement, even though she is not suicidal and even though no other inmate suffers such abuse. Ex. C, Doc. 256. The government responded, Ex. D, and although it previously intimated that Ms. Maxwell might be suicidal (she's not), it now said that the sleep deprivation was justified because she is housed alone, because of the nature of the charges, and because the case is high-profile. Not one of these reasons makes any sense upon any examination. The government did not provide an affidavit from anyone at the jail or explain why depriving Ms. Maxwell

of sleep would alleviate her stress instead of exacerbate it. Ms. Maxwell replied. Ex. E, Doc. 272.

The district court then issued an order saying that it would not tell the Bureau of Prisons what to do but “admonishe[d] 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.” Ex. B, Doc. 282.

But Ms. Maxwell is not being treated like any other detainee. And the horrific conditions make it impossible to prepare for trial. Accordingly, we renew our motion for bond and seek relief from this Court. Ms. Maxwell simply wants a fair opportunity to fight the charges against her at trial.

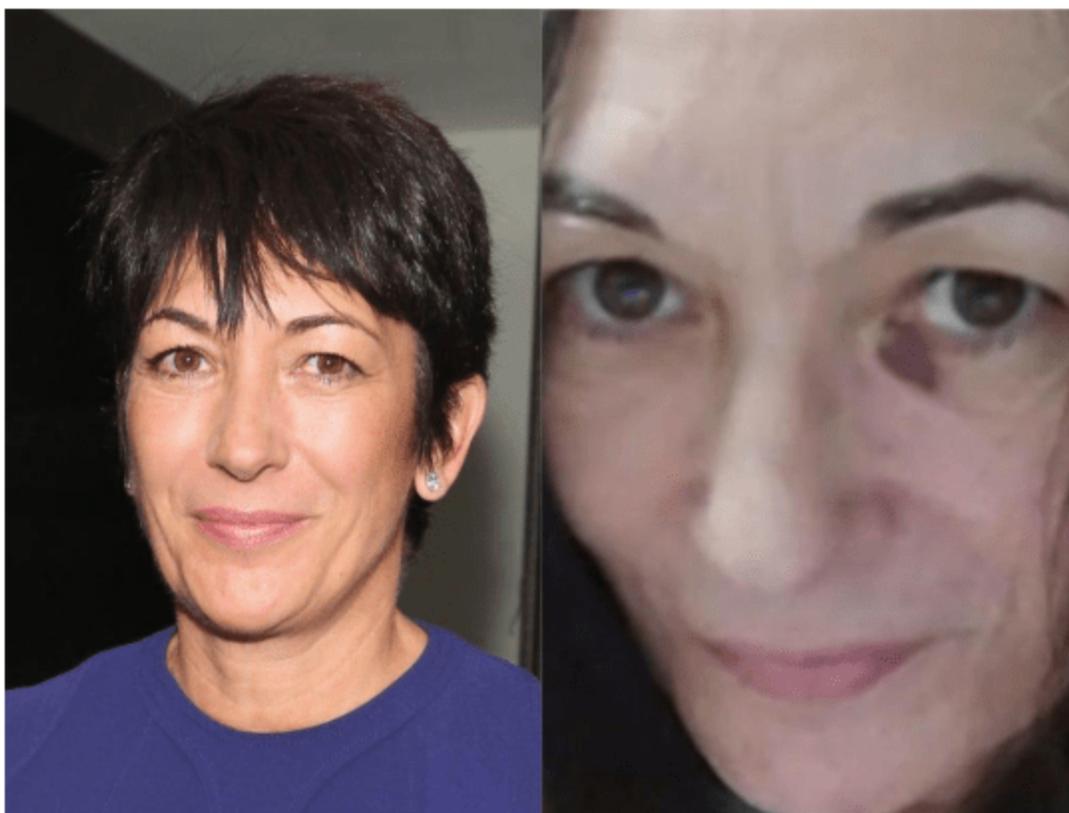
Currently, she (1) can't sleep because the guards wake her every 15 minutes; (2) oftentimes can't drink the water because it is brown and contains particles; (3) can't meet in person with her lawyers because the guards use a handheld camera to video and audio tape record the meetings; (4) can't manage the smell of overflowing sewage that comes up from the drain in her unit; (5) can't keep the guards from seizing and

going through her attorney-client materials; and (6) can't search, print, highlight, or sort the discovery because the "computer" she was given was stripped down and does not have the proper software or hardware capabilities. The truth is that Ms. Maxwell is not being treated in a humane fashion and cannot prepare for trial under these horrific conditions. She has been in solitary confinement with no sleep for almost a year. The presumption of innocence has been turned on its head. This Court should either order her temporary release under 18 U.S.C. 3142(i) or remand this matter and order the trial court to conduct an evidentiary hearing on the conditions of her confinement.

It is important to underscore that the government has made a number of representations to the trial court and to this Court about the conditions of Ms. Maxwell's detention that have proven to be false.

1. Government misrepresentation to the district court: "The defendant wears an eye mask when she sleeps, limiting the disturbance caused by the flashlight [every fifteen minutes]." Doc. 196 (April 6, 2021, gov't letter to district court). But the truth is that she has no "eye mask" and the government has now admitted that eye masks are "contraband" in the jail and that she cannot have one. Doc. 270 (May 5, 2021, gov't

letter to district court) (“MDC legal counsel has informed the government that the defendant cannot be provided with an eye mask.”). So Ms. Maxwell tries to shield her eyes with a sock or towel. Trying to sleep with an unsecured sock over your eyes in an attempt to shield yourself from flashlights searches every 15 minutes makes restful sleep impossible.



The above picture shows how Ghislaine Maxwell looked before her arrest in July 2020 (left) and how she looks now after 10 debilitating months of tortuous conditions at MDC Brooklyn where, just as an example, she is not permitted to sleep. Ex. C, Doc. 256.

2. Government misrepresentation to this Court during oral argument when asked if shining lights in Ms. Maxwell's face every fifteen minutes during the night was routine: "My understanding, Your Honor, is that that is a routine; it is routine by BOP officials." But then in a letter to the district court, the government admitted that Ms. Maxwell is the only inmate who receives these targeted flashlight checks every 15 minutes. Doc. 270 ("MDC staff conduct flashlight checks every fifteen minutes [only for Ms. Maxwell] because the defendant, while not on suicide watch, is on an enhanced security schedule.").

In a response that would make Orwell's Ministry of Truth proud, the government tries to spin this and argue that other inmates are also periodically checked throughout the night. Doc. 270 (stating – without an affidavit or other actual sworn testimony – that in general population, checks are usually done about once an hour).

But try as it might, the government cannot escape the bottom line that Ms. Maxwell is the only person who is treated this way and wakened every 15 minutes while in solitary confinement. In fact, the government then tries to justify the treatment by saying – again without support or an affidavit – that even though Ms. Maxwell is not suicidal, she should

be singled out in this way because she is alone, the nature of the charges, and that this is high profile case. But those reasons, individually or collectively, do not justify torturing someone by depriving them of sleep. Nevertheless, the district judge did not conduct a hearing or otherwise question BOP. It simply allowed the government to file a letter saying that this is what was relayed to the government from the jail lawyer from the jail guards. Even if that hearsay was true (which should be questioned based on other representations made by BOP to the government to the court), it is not at all sufficient for this type of treatment.

3. Government misrepresentation to the district court: Ms. Maxwell “caused [her] cell to smell” by not flushing the toilet. Doc. 196, n.2 (April 6, 2021, gov’t letter to district court). This claim is absurd, of course, and was again made without any sworn statement. Ms. Maxwell responded and explained that the smell of sewage was caused by the conditions in MDC and not by her.

This was recently corroborated by another MDC inmate, Tiffany Days, who explained to Judge McMahon the sorts of conditions that are present at MDC: “I also survived the disgusting feces flood that we were

actually told to clean with our own hands. It was humiliating. Floating, dead water bugs, mice, chunks of defecation coming out of the pipes and urine-filled water gushing all through the area. The water was as high as my ankles, and the smell was as bad. It was so bad, the inmates were vomiting due to nausea. Chunks of feces. And officers telling us that we had to clean it and clean it quick because lunch was on the way.” She continued: “MCC and MDC are the most degrading and humiliating memories of my life. I will hold onto these memories forever, but these memories are my motivation to stay out of trouble, your Honor.” *United States v. Tiffany Days*, April 29, 2021, which can be accessed at: <https://tinyurl.com/ytf8cyw5>. The judge in that case was upset, finding: “it is the finding of this Court that the conditions to which [Tiffany Days] was subjected are as disgusting, inhuman as anything I’ve heard about in any Colombian prison, but more so because we’re supposed to be better than that.” See transcript of sentencing hearing, *United States v. Tiffany Days*, April 29, 2021, which can be accessed at: <https://tinyurl.com/48yw29px>.

4. BOP false accusation to the district court concerning Ms. Maxwell’s lawyers: “Those [privileged] materials that defense counsel

gave to Ms. Maxwell contrary to MDC Brooklyn's legal visit procedures were confiscated by staff..." Doc. 259. Ms. Maxwell's lawyers showed this was false and that they did not give anything to Ms. Maxwell. Doc. 258. In addition, there was a videotape of the incident. But the government refused to review it and refused to provide it to the court. The defense insisted on having a hearing and that it be provided with the videotape of the attorney-client visit so that it could show that the MDC statements to the government were false. The court declined to have a hearing or order the videotape turned over. The truth is actually out there. We simply want an opportunity to demonstrate it at a hearing.

Ironically, the court then blamed the defense for failing to provide proof of its claims. The defense has, over and over again, requested hearings and that the videotapes of what is occurring in jail be produced. But the district court said that the defense "describes generalized grievances but makes no additional specific and supported application for relief." Doc. 282. This is an odd reason to deny Ms. Maxwell relief, especially where even the government admits that guards flash a light in Ms. Maxwell's cell every 15 minutes and that she is not provided an eye mask. We have said and continue to say that we would like production of

the evidence and a hearing so that we may demonstrate our other claims. These requests have been denied. In any event, the government does not even deny most of the allegations we have made – Ms. Maxwell is being kept up at night, that oftentimes the water is undrinkable, that the food is not delivered or inedible, that her computer cannot perform the necessary tasks to prepare for trial, and so on.

Instead, the government simply says that the district judge is managing Ms. Maxwell's conditions. Again, that is just not true. The district court has made it clear – again in its latest order – that it won't tell BOP what to do, even though BOP has not justified in any way the treatment that Ms. Maxwell is receiving. As we have said from the start, everyone knows the real reason she is being subjected to these abusive tactics: because Jeffrey Epstein died on BOP's watch and it is going to treat Ms. Maxwell as though she is Epstein.

In sentencing another woman who was held at MDC, District Judge Colleen McMahon said the defendant "shouldn't have to suffer for the incompetence of the United States Department of Justice and its subsidiary agency, the Bureau of Prisons. I will do what I can to bring your situation to the people who, if they give a damn, might do

something.” See transcript of sentencing hearing, *United States v. Tiffany Days*, April 29, 2021, which can be accessed at: <https://tinyurl.com/48yw29px>.

We are appealing to this Court to do something, as Judge McMahon pleaded. Ghislaine Maxwell has a Constitutional right to be able to prepare effectively for trial. The conditions of her pretrial detention deprive her of that right. For almost a year, she has been held in the equivalent of solitary confinement, in deteriorating health and mental condition from lack of sleep because she is intentionally awakened every 15 minutes by lights shined directly into her small cell, inadequate water and food, the constant glare of neon light, and intrusive searches, including having hands forced into her mouth in a squalid facility where COVID has run rampant.

Ms. Maxwell understands that she and the government are not going to agree on the facts. This is an adversary system, of course. But when the government’s representations about the conditions of confinement continue to be demonstrably and admittedly false, there needs to be an intervention. If the Court is not prepared to temporarily release Ms. Maxwell on bond so that she can prepare for trial, it should

order the district court to conduct a hearing on the conditions of her confinement so that the defense can make the appropriate showing.

Respectfully submitted,

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By: /s/ Leah S. Saffian

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By: /s/ David Oscar Markus  
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Florida Bar Number 19318  
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## **CERTIFICATE OF COMPLIANCE**

I CERTIFY that this petition complies with the type-volume limitation of FED. R. APP. P. 27. According to Microsoft Word, the numbered pages of this petition contains 2,038 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 27(d)(2).

This petition complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 27 because it has been prepared in a proportionally spaced typeface using Microsoft Word in Century Schoolbook 14-point font.

/s/ David Oscar Markus  
David Oscar Markus

## **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

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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)

---

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

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**Appendix\***

App. 86 Second Circuit Court Order  
 April 27, 2021.....A

Doc. 282 Lower Court Order  
 May 14, 2021.....B

Doc. 256 Ghislaine Maxwell letter regarding conditions at  
 Metropolitan Detention Center  
 April 29, 2021..... C

Doc. 270 Government’s Response to Ghislaine Maxwell’s conditions  
 at Metropolitan Detention Center  
 May 5, 2021.....D

Doc. 272 Ghislaine Maxwell’s Reply regarding conditions at  
 Metropolitan Detention Center  
 May 7, 2021.....E

\* App. refers to the Appellate docket and Doc. refers to the district docket.

Respectfully submitted,

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By: /s/ David Oscar Markus  
DAVID OSCAR MARKUS  
Florida Bar Number 19318

**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.

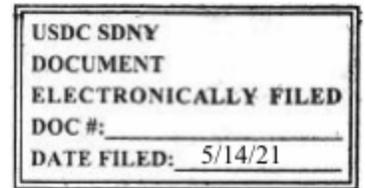
FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk of Court

  
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

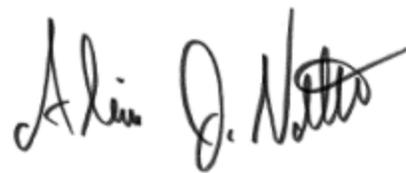
can arise in high-profile cases. The MDC has determined that these factors necessitate more frequent safety and security checks. The Government also indicates that the prohibition on eye masks is a generally applicable policy, but that Maxwell, like other inmates, may use other non-contraband items to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

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

 Catherine O'Hagan Wolfe

EXHIBIT A



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



Exhibit E

Doc. 272

Ghislaine Maxwell's Reply regarding conditions at  
Metropolitan Detention Center

May 7, 2021

# LAW OFFICES OF BOBBI C. STERNHEIM

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