

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

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|--------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | No. 21 MJ 467 |
| |) | |
| KAROL J. CHWIESIUK |) | Hon. Judge Robin M. Meriweather |
| |) | |

MOTION TO MODIFY CONDITIONS OF RELEASE

NOW COMES, Defendant, KAROL J. CHWIESIUK, by and through his counsel, Nishay K. Sanan, and respectfully moves this Honorable Court to modify the conditions of his release. In support, Mr. Chwiesiuk states as follows:

1. On June 11, 2021, Mr. Chwiesiuk, appeared for his initial appearance before the Honorable Gabriel A. Fuentes, Magistrate Judge for the Northern District of Illinois, Eastern Division. *See* Transcript of Proceedings attached here as **Exhibit A**.

2. After a detention hearing, Mr. Chwiesiuk was released on his own recognizance with an unsecured bond in the amount of \$15,000.00. As conditions of release, he was ordered not to possess a firearm, to surrender his Firearm Owner’s Identification Card (“FOID”), and to ensure that there are no firearms in his residence.

3. On June 16, 2021, Mr. Chwiesiuk appeared for his initial appearance in the United States Court of the District of Columbia before the Honorable Judge Zia M. Faruqi. He was placed on Standard Conditions of Release. *See* Conditions of Release attached here as **Exhibit B**.

4. Mr. Chwiesiuk is employed as a Police Officer with the Chicago Police Department. Because of these pending charges, he is currently on desk duty and is not required, nor permitted, to possess a firearm in the operation of his duties.

5. However, as a condition of continued employment with the Chicago Police Department, Mr. Chwiesiuk is nonetheless required to possess a valid FOID card while on duty, regardless of whether he is currently in possession of a firearm. *See* Chicago Police Department Directive Attached here as **Exhibit C**.

6. Pursuant to the Court's orders, Mr. Chwiesiuk surrendered his FOID to the Pretrial Services Division of the Northern District of Illinois. He subsequently received notice from the Illinois State Police that his FOID had been revoked.

7. Because he is unable to carry his FOID, Mr. Chwiesiuk has been informed that he will lose his employment with the Chicago Police Department.

8. Further, Mr. Chwiesiuk cannot begin the grievance process through the Collective Bargaining Unit of the Chicago Police Officers until he has possession of his FOID. *See* Email from Daniel Gorman, the 2nd Vice President of the Chicago Fraternal Order of Police, Lodge #7 attached here as **Exhibit D**.

9. Mr. Chwiesiuk intends to appeal the FOID revocation as the specific sections with which he is charged in the instant case are non-violent misdemeanor charges, convictions of which are not automatic grounds for a revocation of his FOID under Illinois law. *See* 430 Ill. Comp. Stat. Ann. 65/8.

10. If he is successful in his request for the FOID's reinstatement, Mr. Chwiesiuk respectfully requests that this Court allow him to carry the FOID so that he may keep his employment.

11. Mr. Chwiesiuk does not seek to remove the conditions of bond directing that he may not possess a firearm nor have any firearms in his home. He has complied with these terms, as well as all other terms, since his release and he will continue to do so.

12. There has been no finding that he is a danger to the community and considering he will continue to refrain from possessing a firearm, the return of his FOID will create no additional threat.

13. Counsel for Defendant notified the AUSA of this request and to date has not ascertained the Governments position to the modification.

Wherefore, the Defendant, Karol Chwiesiuk, respectfully requests that this Court enter an order modifying his conditions of release to allow him to possess a FOID while on pretrial release.

Respectfully submitted,

/s/ Nishay Sanan

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From: [REDACTED],
To: [REDACTED],
Subject: Foid
Date: Tue, Jul 20, 2021 5:01 pm

Sent from ProtonMail mobile

----- Original Message -----

On Jul 20, 2021, 4:57 PM, Daniel Gorman <[REDACTED]> wrote:

Pre-trial services,

I am the 2nd Vice President of the Chicago Fraternal Order of Police, Lodge #7 (FOP), which is the Collective Bargaining Unit (Union) for Chicago Police Officers and Detectives. I've received an inquiry regarding wages and status from one, Police Officer Karol J. Chwiesiuk, and subsequently conducted contract research.

It appears that as of today's date, Karol Chwiesiuk is an active member of the FOP and entitled to rights under the Collective Bargaining Agreement (contract) that the FOP has with the city of Chicago. He is also entitled to rights under section 26.4 of the contract which is titled "Payment of Wages". Payment of wages is afforded to members for work performed by the member.

However, the employer (Chicago Police Department) is entitled to "Management Rights" which includes the right to create and maintain department policy. A review of department policy, (Employee Resource E01-17), "Firearm Owner's Identification (FOID) card requirements for Sworn Department Members" essentially provides that possession of an FOID card is a condition of employment.

Specifically, section IV.A.1. titled "POLICY" states the following:

"A. The Chicago Police Department required all sworn members to have:"

"1. A valid FOID card and possess the FOID care while on duty."

Once Officer Chwiesiuk is successful in obtaining possession of his FOID card, he should notify the Chicago Police Department Human Resources division and request to be given an assignment. It is at that point that we (Union) can start the grievance process to get Officer Chwiesiuk into a pay-status.

Daniel Gorman

2nd VP, Lodge #7