

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Nos. 17-CR-160,
16-CR-64

RONALD VAN DEN HEUVEL,

Defendant.

MOTION TO MODIFY RESTITUTION PAYMENT SCHEDULE

NOW COMES the United States of America, by its attorneys, Gregory J. Haanstad, United States Attorney for the Eastern District of Wisconsin, and Rebecca Taibleson, Assistant United States Attorney for said district, and hereby moves the Court, pursuant to 18 U.S.C. § 3664(k), to modify defendant Ronald Van Den Heuvel's restitution payment schedule in case numbers 17-CR-160 and 16-CR-64, for the reasons that follow.

1. Mr. Van Den Heuvel has been convicted in this court in two separate criminal cases. In number 16-CR-64, Mr. Van Den Heuvel was convicted of conspiracy to commit fraud, and required to pay \$316,445.47 in restitution. 16-CR-64, Dkt. 184. The judgment in that case states that "[p]ayment during the term of supervised release will commence within 30 days after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time." *Id.* at 6. The terms of supervised release state that "[t]he defendant is to pay restitution at a rate of not less than \$200.00 per month or 10% of his or her net earnings, whichever is greater. The defendant will also apply 100 percent of his or her yearly federal and state tax refunds toward the payment of restitution." *Id.* at 4.

2. In number 17-CR-160, Mr. Van Den Heuvel was convicted of wire fraud, and required to pay \$9,428,618.81 in restitution. 17-CR-160, Dkt. 150. The judgment in that case

states that restitution must be paid “in equal monthly installments of not less than \$200.00 or 10% of the defendant’s net earnings, whichever is greater, until paid in full, to commence 30 days after release from imprisonment to a term of supervision.” *Id.* at 7. The terms of supervised release similarly state that “[t]he defendant is to pay restitution at a rate of not less than \$200.00 per month or 10% of his or her net earnings, whichever is greater. The defendant will also apply 100 percent of his or her yearly federal and state tax refunds toward the payment of restitution.” *Id.* at 5.

3. This court sentenced Mr. Van Den Heuvel to a term of 90 months’ imprisonment in 17-CR-160, and his anticipated release date is technically May 26, 2025. *See* https://www.bop.gov/mobile/find_inmate/byname.jsp#inmate_results (BOP Inmate Locator, listed as “RONALD H VANDEN HEUVEL”). The Bureau of Prisons has nonetheless released Mr. Van Den Heuvel to “home confinement” pursuant to the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (“CARES Act”), Section 12003(b)(2). Neither the United States Attorney’s Office nor the victims were consulted in advance about that transfer. Mr. Van Den Heuvel is thus currently out of custody and residing in Cheboygan, Michigan, where he is able to work. Indeed, multiple witnesses have reported to the government that he is, in fact, earning money. Mr. Van Den Heuvel has not, however, been making regular restitution payments, and continues to owe substantial outstanding restitution. He most recently contributed to his restitution obligation in June 2021 (for case 17-CR-160) and December 2021 (for case 16-CR-64).

4. Under 18 U.S.C. § 3664(k), “[a] restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant’s economic circumstances that might affect the defendant’s ability to pay restitution.” Mr. Van Den Heuvel’s judgments follow that instruction. *See* 17-CR-160, Dkt. 150, at 1 (“IT IS ORDERED, that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify

the Court and the United States Attorney of material changes in economic circumstances.”); 16-CR-64, Dkt. 184, at 1 (same). While Mr. Van Den Heuvel has not provided the required notice, “[t]he court may also accept notification of a material change in the defendant’s economic circumstances from the United States.” 18 U.S.C. § 3664(k). Upon receipt of that notification, “the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.” *Id.*; *see also* 18 U.S.C. § 3664(o)(1)(D) (providing that a final restitution order may be “adjusted under section 3664(k)”).

5. Based upon the foregoing, the United States respectfully asks this Court to modify the restitution orders in both cases to require Mr. Van Den Heuvel to begin paying restitution now, on the same terms as if he were on supervised release—*i.e.*, “not less than \$200.00 per month or 10% of his or her net earnings, whichever is greater,” and “100 percent of his or her yearly federal and state tax refunds.” Given that Mr. Van Den Heuvel is out of custody and equally able to work as he would be on supervised release, there is no reason for his victims to wait until his formal term of supervised release begins in 2025 to receive regular restitution payments. *See, e.g., United States v. Tarnawa*, 26 F.4th 720, 725 (5th Cir. 2022) (“A convicted criminal ‘cannot escape his responsibility to restore his victims by hiding behind his sentencing order, not when he has the means to pay and not when the law provides a remedy that the government and the district court may act upon.’”).

6. 18 U.S.C. § 3664(k) also requires the government to “certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances” described herein. The government hereby certifies that the required notification has been made.

Respectfully submitted this 22nd day of September, 2022 at Milwaukee, Wisconsin.

Respectfully submitted,
GREGORY J. HAANSTAD

United States Attorney

By: s/ Rebecca Taibleson
Assistant United States Attorney
Wisconsin Bar Number: 1104085
United States Attorney's Office
Eastern District of Wisconsin
517 East Wisconsin Avenue, Room 530
Milwaukee, WI 53202
Telephone: (414) 297-1700
Fax: (414) 297-1738
E-Mail: rebecca.taibleson@usdoj.gov

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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2022, I electronically filed the following document with the Clerk of the Court using the ECF system: Renewed Motion to Modify Restitution Payment Schedule.

Notice of such filing will automatically be sent via ECF to the following:

- FDS - First Step Act
Email: Anderson_Gansner@fd.org
- Robert G LeBell
Email: dorbell@ldm-law.com

I further certify that I have caused the document to be mailed by United States Postal Service to the following non-ECF participant:

Ronald Van Den Heuvel
118 6th St.
Cheboygan, MI 49721

s/ Rebecca L. Taibleson
REBECCA L. TAIBLESON
Assistant United States Attorney