

Supreme Court, U.S.

FILED

OCT 10 2026

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No. 26A532

**IN THE
SUPREME COURT OF THE UNITED STATES**

FRANK MICHAEL MONTE, III,
Applicant,

v.

UNITED STATES OF AMERICA,
Respondent.

**APPLICATION FOR A STAY OF THE JUDGMENT
AND SUPERVISED RELEASE CONDITIONS
OF THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

**PENDING THE FILING AND DISPOSITION OF A
PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Samuel A. Alito, Jr.
Associate Justice of the Supreme Court of the United States
and Circuit Justice for the Third Circuit

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SUPREME COURT, U.S.

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I. RELIEF REQUESTED

Pursuant to Supreme Court Rules 22 and 23 and 28 U.S.C. § 2101(f), Applicant Frank Michael Monte, III, pro se, respectfully requests that Justice Alito stay the Third Circuit's judgment of **August 12, 2026**, in No. 26-2501, which affirmed the denial of a motion to modify supervised-release conditions under 18 U.S.C. § 3583(e)(2). The stay is sought as to the remaining supervised-release term and conditions in No. 3:19-cr-00821-RK-1 (Kirsch, J.), including the 12-month residential reentry placement, drug testing, mental-health programming, search conditions, and reporting. The stay preserves the status quo pending a timely petition for certiorari.

II. IDENTIFICATION OF THE JUDGMENT SOUGHT TO BE REVIEWED AND PROCEDURAL HISTORY

The judgment under review is the Third Circuit's non-precedential opinion of **August 12, 2026**, affirming the denial of a motion to modify under 18 U.S.C. § 3583(e)(2). The December 30, 2024 revocation judgment was not appealed. See Exhibit A.

On **December 30, 2024**, the District Court imposed 20 months' imprisonment followed by 16 months of supervised release, with a special condition of 12 months at a residential reentry center. Under 18 U.S.C. § 3583(h), a new supervised-release term may not exceed the term authorized for the original offense less the imprisonment imposed on revocation. Twenty months plus 16 months equals 36 months, the three-year maximum for a Class C or D felony. The term is at the statutory ceiling.

After release, Applicant resided compliantly at home for nearly three months and completed a Care Plus assessment that found no further treatment necessary. He moved under § 3583(e)(2) to modify the residential reentry condition based on his post-stent condition and caregiving responsibilities. The District Court denied the motion. A motions panel denied a stay before the **June 23, 2026** surrender. On **August 12, 2026**, the Third Circuit affirmed for abuse of discretion, noting that Applicant had not submitted medical records below and had not preserved challenges to the original imposition of the condition. On **August 25, 2026**, a panel denied a further stay. On **October 8, 2026**, rehearing and rehearing en banc were denied. The 90-day period runs from that date under Rule 13 and 28 U.S.C. § 2101(c).

III. WHY THE RELIEF SOUGHT IS NOT AVAILABLE FROM ANY OTHER COURT OR JUDGE (RULE 23.3)

An application for a stay shall set out with particularity why the relief sought is not available from any other court or judge. Except in the most extraordinary circumstances, an application for a stay will not be entertained unless the relief requested was first sought in the appropriate court or courts below or from a judge or judges thereof. Sup. Ct. R. 23.3.

Applicant first sought stays in the Third Circuit: an emergency request before the **June 23, 2026** surrender (denied **June 22, 2026**) and a further emergency motion for stay of all conditions (denied **August 25, 2026**). Rehearing was denied on **October 8, 2026**. The orders are appended as Exhibit A. Relief was first sought below as required by Rule 23.3. No further avenue remains in the lower courts. See *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56 (1982).

IV. SPECIFIC REASONS WHY A STAY IS JUSTIFIED

Under Rule 23 and established practice, an applicant for a stay pending certiorari must demonstrate (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will conclude that the decision below was erroneous; and (3) a likelihood that irreparable harm will result from the denial of a stay. In close cases, the equities are balanced. See *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam); *Nken v. Holder*, 556 U.S. 418 (2009); cf. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (likelihood of irreparable harm and balance of equities).

A. Reasonable probability of certiorari and fair prospect of reversal

Four Justices would have reason to grant review on questions tied to the modification denial.

The residential reentry condition, as enforced after stent placement, must satisfy the “reasonably related” and “no greater deprivation of liberty than is reasonably necessary” requirements of 18 U.S.C. § 3583(d). Weekend testing call-backs that disrupt dual antiplatelet therapy and rest are not reasonably related to the statutory purposes and impose a greater deprivation than necessary. See Exhibit B.

Section 3583(e)(2) is the vehicle for changed circumstances. The post-stent condition is a changed circumstance. The circuit's refusal to consider the medical evidence on a motion to modify raises a due-process and supervisory-power concern. Applicant notes the preservation gaps: he did not appeal the December 30, 2024 judgment, and he did not submit medical records with the motion below. Those gaps do not foreclose review of whether the condition as now enforced exceeds § 3583(d).

A further question is whether a 12-month residential reentry condition, imposed when the imprisonment and supervised-release total already sits at the § 3583(h) ceiling, can function as a de facto additional term of custody. Applicant advanced that characterization below. The circuit addressed it and rejected it, holding that halfway-house time imposed as a condition of supervised release does not count as prison time. See *United States v. Matta*, 777 F.3d 116, 123–24 (2d Cir. 2015). The judgment treats the 12 months as a special condition of the 16-month term. The question for certiorari is whether that characterization is correct when the total is already at the statutory maximum and the condition operates as a continuous deprivation of liberty. Related concerns under *United States v. Haymond*, 139 S. Ct. 2369 (2019), remain available.

B. Likelihood of irreparable harm

On **October 29, 2025**, at UPMC Altoona, Applicant underwent emergency percutaneous coronary intervention for a 99–100% right-coronary occlusion with placement of a Boston Scientific SYNERGY everolimus-eluting stent. Survival depends on uninterrupted dual antiplatelet therapy (clopidogrel 75 mg and aspirin 81 mg) and rest. See Exhibit B. Weekend testing call-backs disrupt medication timing and rest. That disruption creates an imminent risk of stent thrombosis that cannot be remedied after the fact. Applicant is also the sole caregiver for his dependent aunt.

C. Balance of equities and public interest

After release, Applicant resided compliantly at home for nearly three months and completed a Care Plus assessment that found no depressive symptoms, no imminent risk, and no need for further treatment. Requiring a halfway-house placement after that compliance and clinical clearance is a greater deprivation of liberty than is reasonably necessary under § 3583(d). Applicant poses no flight risk and no danger to the community. A stay preserves medically necessary care while the certiorari process proceeds and will not substantially injure the United States.

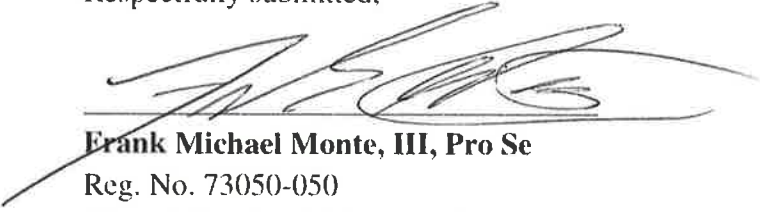
V. CONCLUSION

For the foregoing reasons, Applicant respectfully requests a stay of the Third Circuit's judgment and of the supervised-release conditions identified above, pending the filing and disposition of a petition for a writ of certiorari.

UNSWORN DECLARATION UNDER 28 U.S.C. § 1746

I, Frank Michael Monte, III, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief. Executed on **October 10, 2026**, at Newark, New Jersey.

Respectfully submitted,



Frank Michael Monte, III, Pro Se

Reg. No. 73050-050

Kintock Residential Reentry Center

50 Fenwick Street

Newark, New Jersey 07114

Telephone: (954) 629-1289

Email: *ardentsystems@gmail.com*

CERTIFICATE OF SERVICE

I hereby certify that on **October 10, 2026**, a true and correct copy of the foregoing Application for a Stay of the Judgment and Supervised Release Conditions was served upon the following by first-class mail or commercial carrier, as permitted by Supreme Court Rule 29:

1. United States of America

Office of the Solicitor General
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Washington, D.C. 20530-0001

2. Mark E. Coyne, Esq.

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in Third Circuit Nos. 26-2501
and 26-2872)*



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EXHIBIT A

Submitted to the Honorable Samuel A. Alito, Jr.
Associate Justice of the Supreme Court of the United States
Circuit Justice for the Third Circuit

Third Circuit Opinion and Orders

Chronological Index

1. August 12, 2026

Opinion, No. 26-2501, Doc. 37

Affirmance of denial of motion to modify under § 3583(e)(2)

2. August 21, 2026

Order, No. 26-2872, Doc. 19

Denying petition for writ of mandamus

3. August 25, 2026

Order, No. 26-2501, Doc. 45

Denying motion for stay of supervised release conditions

4. October 8, 2026

Order, No. 26-2501, Doc. 47

Denying rehearing and rehearing en banc

5. October 8, 2026

Order, No. 26-2872, Doc. 23

Denying rehearing and rehearing en banc

The August 12, 2026 opinion is the judgment under review.
The October 8, 2026 orders mark the start of the 90-day period under Rule 13.

DLD-174

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-2501

UNITED STATES OF AMERICA

v.

FRANK MICHAEL MONTE, III,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal Action No. 3:19-cr-00821-001)
District Judge: Honorable Robert Kirsch

Submitted By the Clerk for Possible Summary Action
Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
July 30, 2026

Before: RESTREPO, PORTER, and MONTGOMERY-REEVES, *Circuit Judges*

(Opinion filed August 12, 2026)

OPINION*

PER CURIAM

Frank Monte appeals from the District Court's order denying his motion to modify

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

the terms of his supervised release. We will affirm.

I.

Monte was convicted of crimes relating to threats against law enforcement officers, and the District Court sentenced him to 57 months in prison followed by three years of supervised release. Monte did not comply with the terms of his supervised release, so the District Court revoked it and sentenced him to 20 more months in prison followed by 16 more months of supervised release, 12 of which the court required him to serve in a community corrections center (also known as a halfway house). The court entered that judgment on December 30, 2024.

Monte did not appeal that judgment. Instead, he later filed a “motion to correct illegal sentence,” purportedly under Fed. R. Civ. P. 60(b). He argued only that the District Court erred in calculating his additional prison term. He did not mention the imposition of a new term of supervised release or the requirement that he serve 12 months of that term in a halfway house. The District Court denied the motion to the extent that Monte relied on Rule 60(b) and held that he could proceed only under 28 U.S.C. § 2255, which the court gave him a chance to do. Monte instead appealed, and we affirmed. (C.A. No. 25-2331.)

About two months later, Monte was released from prison and began serving his new term of supervised release. Shortly thereafter, he started requesting modifications of the terms of that release. His first request was by letter requesting the addition of a term “explicitly stat[ing] that I shall work directly with my assigned probation officer to ‘identify and resolve any outstanding administrative or compliance-related matters.’”

That letter did not request modification of the requirement that Monte report to a halfway house, but about six weeks later he followed it with a filing that did. In that filing, Monte advised the court that he had suffered a heart attack while still in prison and that recent testing showed that he has coronary artery disease. He argued that his heart attack was caused by stress created by prison conditions and that similar “environmental stressors” at a halfway house would “conflict with [his] medical requirements.” But Monte did not provide any medical records or any specifics regarding any treatment he required or any reason to believe he could not receive it while at a halfway house. He nevertheless asked the District Court to vacate the halfway-house requirement for these reasons.

The court initially denied Monte’s pro se requests on the ground that it would not consider his pro se filings because it previously appointed stand-by counsel. But that same day Monte filed a supplemental request reiterating his heart condition and asserting with little elaboration that his elderly aunt had fallen down some stairs and required his assistance. The court then denied Monte’s requests on the merits.

Monte appealed and filed a motion to stay his obligation to report to a halfway house. A motions panel of this Court denied that motion, and Monte reported as required. Monte also filed a motion to expedite this appeal, and the Clerk advised the parties that the Court would consider taking summary action. The parties have filed responses on that issue, and Monte has filed numerous other motions and documents in support of his appeal.

II.

We will affirm because this appeal presents no substantial question. *See* 3d Cir. L.A.R. 27.4 (2011). Requests to modify a term of supervised release are governed by 18 U.S.C. § 3583(e)(2), and this Court typically reviews the denial of such requests only for abuse of discretion. *See United States v. D'Ambrosio*, 105 F.4th 533, 539 (3d Cir. 2024). We discern none here.

Monte does not directly challenge the District Court's reasons for denying his § 3583(e)(2) motions¹ and, even if he had, the court did not abuse its discretion for the reasons it explained. Monte instead argues that the court erred in imposing the halfway-house requirement in the first place. But Monte did not raise his arguments in that regard before the District Court. His arguments also do not state grounds for relief under § 3583(e)(2) because he could have raised them before by appealing or perhaps in a proper motion under 28 U.S.C. § 2255. *See D'Ambrosio*, 105 F.4th at 539. He did neither.

Finally, as the Government argues, Monte's arguments lack merit. His primary argument appears to be that the District Court exceeded its authority in imposing the halfway-house condition because time in a halfway house counts as prison time. But Monte's time in a halfway house does not count as prison time because the court imposed it as a condition of supervised release. *See United States v. Matta*, 777 F.3d 116, 123-24

¹ After responding on the issue of summary action, Monte filed an "emergency motion" asserting that he has the flu and that this development undermines the District Court's reasons for denying his § 3583(e)(2) motions. That development does not undermine the court's ruling because it was not before that court, and it does not otherwise state any basis for relief in this appeal.

(2d Cir. 2015); *United States v. Elkins*, 176 F.3d 1016, 1020-21 (7th Cir. 1999); *United States v. Horek*, 137 F.3d 1226, 1229 (10th Cir. 1998). Nor has Monte raised anything else suggesting that the court erred in imposing or declining to modify that condition.

III.

For these reasons, we will affirm the judgment of the District Court. Monte's motions and other requests for relief are denied.

DLD-183

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-2872

IN RE: FRANK MICHAEL MONTE, III,
Petitioner

On a Petition for Writ of Mandamus to the
United States District Court for the District of New Jersey
(Related to D.N.J. Crim. No. 3:19-cr-00821-001
and D.N.J. Civ. No. 3:26-cv-09115)

Submitted Pursuant to Rule 21, Fed. R. App. P.
August 13, 2026

Before: RESTREPO, PORTER, and MONTGOMERY-REEVES, *Circuit Judges*

ORDER

PER CURIAM:

This cause came to be considered on a petition for writ of mandamus submitted on August 13, 2026. On consideration whereof, it is now hereby

ORDERED by this Court that the petition for writ of mandamus be, and the same is, denied. All of the above in accordance with the opinion of the Court.

DATED: August 21, 2026



A True Copy:

Patricia A. Dodszeit

Patricia S. Dodszeit, Clerk

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 26-2501

UNITED STATES OF AMERICA

v.

FRANK MICHAEL MONTE, III,
Appellant

(D.N.J. No. 3:19-cr-00821-001)

Present: RESTREPO, PORTER and MONTGOMERY-REEVES, *Circuit Judges*

1. Motion filed by Appellant Frank Michael Monte, III For stay of all supervised release conditions pending en banc disposition.

Respectfully,
Clerk/lmr

ORDER

The foregoing motion is hereby denied.

By the Court,

s/L. Felipe Restrepo
Circuit Judge

Dated: August 25, 2026
Lmr/cc: Frank Michael Monte, III
All Counsel of Record

**Additional material
from this filing is
available in the
Clerk's Office.**