

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Criminal Action No. 05-cr-00545-MSK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH P. NACCHIO,

Defendant.

**ORDER DENYING DEFENDANT'S EMERGENCY MOTION FOR
RECONSIDERATION AND FOR FURLOUGH**

THIS MATTER comes before the Court on the Defendant's Emergency Motion for Reconsideration of the Court's Order with Regard to Defendant's Notice of Intent to Waive Appearance at Re-sentencing Hearing, or in the Alternative, Defendant's Emergency Motion for Furlough (#604) and the Government's response (#606).¹

Upon consideration of same, the motion is **DENIED**. Although the Court may have authority to accept a written waiver in lieu of Mr. Nacchio's appearance in court, due to the circumstances in this particular case, it declines to do so. With regard to the requested furlough, the Court has no authority to grant it. *See* 28 C.F.R. § 570.32. It declines to recommend a furlough because it does not appear that Mr. Nacchio is eligible and because such recommendation appears futile given the impending hearing date.

The United States Marshal has represented to the Court that it is not possible to bring Mr. Nacchio before the Court before the April 21, 2010 hearing. Therefore such hearing is

¹The Court exercises jurisdiction pursuant to 28 U.S.C. § 1331.

VACATED. The parties **JOINTLY SHALL CONTACT** the Court's chambers to re-set the hearing.

Dated this 15th day of April, 2010

BY THE COURT:

Marcia S. Krieger

Marcia S. Krieger

United States District Judge

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