

1 ALEX G. TSE (CABN 163973)
Acting United States Attorney

2 BARBARA J. VALLIERE (DCBN 439353)
3 Chief, Criminal Division

4 ROBIN L. HARRIS (CABN 123364)
WILLIAM FRENTZEN (LABN 24421)
5 Assistant United States Attorneys

6 450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
7 Telephone: (415) 436-7016
8 FAX: (415) 436-7234
robin.harris2@usdoj.gov

9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13	UNITED STATES OF AMERICA,)	NO. CR 17-0557 MMC
14)	
15	Plaintiff,)	
16	v.)	UNITED STATES' RESPONSE TO
17	JEFFREY WERTKIN,)	WERTKIN'S LETTER RE:
18	Defendant.)	RECONSIDERATION OF COURT'S DENIAL
)	OF RDAP RECOMMENDATION

19 On March 7, 2018, this Court sentenced defendant Jeffrey Wertkin to 30 months imprisonment
20 for his convictions on obstruction of justice and interstate transportation of stolen property. Dkt 20. On
21 March 8, 2018, his then-attorney of record¹ wrote the Court a letter requesting the Court to make a
22 recommendation that defendant be permitted to participate in the Bureau of Prisons' Residential Drug
23 Abuse Program (RDAP). After considering the matter, on March 14, 2018, the Court issued an order
24 declining to make the requested recommendation. Dkt 19.

25 Defendant has now filed a 3 page *pro se* letter which he wrote on March 16, 2018 after his

27 ¹ The government was informed that the Arguedas, Cassman & Headley law firm's
28 representation of defendant terminated on March 13, 2018.

1 RDAP request was denied, but which pertains to a situation he was aware of by March 8, 2018 when his
2 original RDAP request was still pending. Dkt 22. In defendant's letter, he recites a series of his
3 contentions and interpretations about the return of property seized during his arrest in January, 2017 that
4 have absolutely no bearing on the Court's recent order declining to make a recommendation for RDAP.
5 The defendant has now chosen to use his warped interpretation of the implications of his return of
6 property to attempt to extort a second bite at the RDAP apple, which was his true purpose in sending the
7 letter in the first place.

8 We respectfully observe that nothing in the defendant's letter has anything to do with the Court's
9 correct decision (Dkt 19) not to refer the defendant to RDAP. The defendant is not a drug addict as he
10 himself admitted when he thought doing so would help him get a more lenient sentence. "Wertkin
11 stated that he has successfully abstained from all illegal drugs while on bail." PSR ¶ 89. The bond in
12 this case had no condition requiring drug testing because such a condition was not necessary; the
13 defendant is not addicted to any controlled substance. As he has pointed out to this Court and the
14 Probation Office, defendant has been successful in refraining from using marijuana edibles for more
15 than 14 months while he has been out on bail. Accordingly, it is clear that Wertkin is seeking admission
16 to the RDAP program to try to game the system and have his sentenced reduced a full year by
17 participating in a program that has limited resources and which should be reserved for the many inmates
18 who are truly addicts and who desperately need the intensive RDAP program. The defendant is not such
19 a person as the Court has correctly concluded.

20
21 DATED: March 21, 2018

Respectfully submitted,

ALEX G. TSE
Acting United States Attorney

_____/s/_____
ROBIN L. HARRIS
Assistant United States Attorney