

**INITIAL APPEARANCE**  
**Motion to Revoke Pretrial Release**

[**NOTE:** Under the Crime Victims’ Rights Act, 18 U.S.C. § 3771(a)(2) and (3), any victim of the offense has the right to notice of “any public court proceeding . . . involving the crime . . . of the accused,” and to attend that proceeding. It may be advisable to ask the prosecutor if there are any victims and, if so, whether the government has fulfilled its duty to notify them.]

1. **[Announce case]**
2. **[To Defendant]** We are here today because the government has filed a motion asking me to revoke the order setting the conditions of your pretrial release and order you detained until the conclusion of this case. The purpose of today’s hearing is to advise you of the allegations contained in the government’s motion, explain your rights, and, if necessary, set some further hearings on this matter.
3. I remind you that you have a right not to make a statement during today’s hearing and that any statement you do make may be used against you. Do you understand?
4. You also have a right to be represented by an attorney. Attorney \_\_\_\_\_, who represents you in the underlying criminal matter, represents you on this motion as well. Do you understand?
5. **[To Defense Counsel]** Has the defendant received a copy of the motion to revoke, and have you had time to review it with him/her?
6. **[To Defendant]** In its motion to revoke, which is supported by a declaration of Officer \_\_\_\_\_ (Probation Officer), the government alleges that you [summarize allegations].
7. If the motion is granted, the order setting your conditions of release will be revoked and you will be detained pending trial. The revocation will be placed on your permanent record and could, among other potential

consequences, affect your sentence and/or Bureau of Prisons classification.

8. You have a right to a hearing on the government's motion to revoke the order setting your conditions of release. At such a hearing the government would have to establish probable cause that you have committed a crime while on pretrial release or prove by clear and convincing evidence that you have violated a condition of your pretrial release. Before granting the motion to revoke, I would also have to find that there is no condition or set of conditions of release that would reasonably assure you will not flee or pose a danger to the community, or that you would be unlikely to abide by any condition or set of conditions.
9. ***[To Defense Counsel]*** Is the defendant requesting a hearing on the government's motion?
  - a. ***[If YES, schedule the hearing and enter an order temporarily detaining the defendant until the hearing]***
  - b. ***[If the defendant is going to WAIVE the hearing and CONSENT to detention BUT the government is PRESSING its motion to revoke]***
    - i. ***[To Defendant]*** I understand that you are going to voluntarily give up your right to pretrial release and agree to detention pending trial. Is that true?
    - ii. Have you had enough time to consider that decision and discuss it with Attorney \_\_\_\_\_?
    - iii. Is anyone or anything forcing you to give up your right to a hearing, voluntarily relinquish pretrial release, and consent to detention pending trial?

- iv. Do you understand that if I accept your waiver, I will grant the government's motion to revoke and detain you pending trial?
  - v. I find that your relinquishment of pretrial release is knowing, intelligent, and voluntary. I will, therefore, grant the government's motion to revoke. [If there is a change of circumstances, you have the right under federal law to come back to court and ask for a reopened hearing.]
- c. ***[If the defendant is going to WAIVE the hearing and CONSENT to detention AND the government has agreed to WITHDRAW its motion to revoke]***
- i. ***[To Defendant]*** I understand that you are going to voluntarily give up your right to pretrial release and agree to detention pending trial with the understanding that, if you do so, the government will withdraw its motion to revoke. Is that true?
  - ii. Have you had enough time to consider this decision and discuss it with Attorney \_\_\_\_\_?
  - iii. Is anyone or anything forcing you to give up your right to a hearing on the government's motion to revoke, voluntarily relinquish pretrial release, and consent to being detained pending trial?
  - iv. Do you understand that if I accept your waiver with the understanding that the government will withdraw its motion, I will then enter an order detaining you pending trial?
  - v. I find that your relinquishment of pretrial release is knowing, intelligent, and voluntary. I will, therefore, enter an order of detention detaining you pending trial. [If there is a change of

circumstances, you have the right under federal law to come back to court and ask for a reopened hearing.]