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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

**JUDGE JAMES B. ZAGEL
UNITED STATES DISTRICT COURT**

UNITED STATES OF AMERICA,

Plaintiff,

No. 02 CR 1050 - 8

Honorable James b. Zagel, Judge

vs.

MICHAEL MARCELLO,

Defendant.

**EMERGENCY MOTION FOR RELEASE TO ATTEND
A WAKE AND FUNERAL**

NOW COMES, Defendant, MICHAEL MARCELLO, on an emergency basis, by and through his attorney ALEXANDER M. SALERNO and petitions this Honorable Court to release him under certain conditions, to attend the wake and funeral of his mother and in support the Defendant states and alleges as follows:

1. That on Tuesday, September 6, 2005 at around 10:30 a.m. Michael Marcello's mother passed away. The family has made arrangements for a wake on Sunday, September 11, 2005 at Cumberland Chapel, 8300 W. Lawrence in Norridge, Illinois 60706. The private services for the family will begin at 1:00 p.m.. The public will be allowed in at 3:00 p.m. and the wake will continue until 8:00 p.m. On Monday, September 12, 2005 the funeral will begin at Cumberland Chapel at 9:00 a.m. The procession will proceed to Our Lady of Hope at 9711 W.

Devon Avenue in Rosemont, Illinois 60018 and internment will occur at Mt. Carmel Cemetery, 1400 S. Wolf Rd., Hillside, Illinois 60162 at 11:30 a.m.

2. That the court can take notice without explanation of the great importance a son would place on attending his mother's wake and funeral. However, to specifically explain to the court the close relationship between Michael Marcello and his mother, Michael Marcello would like the court to know that Mr. Marcello was married for ten (10) years that during that ten year period his mother lived next door to him. The other 44 years of his life, Mr. Marcello lived with his mother and (along with his son for a period of time) was the sole physical, mental and emotional caretaker for his mother. Their relationship was very close and the incarceration in the instant cause was the only time that the defendant was ever separated from his mother for a long period of time. Mr. Marcello can think of nothing more devastating than to miss his mother's wake and funeral, and would like the court to take that into consideration in assessing his request wherein.

3. Mr. Marcello is asking this court to release him into the custody of the U.S. Marshall Services for the wake and funeral. Attorney Alexander M. Salerno has spoken with prosecutor Mitch Mars and the Marshall Services, through Mr. Mars, is possibly objecting to this request and has indicated that they do not have the man power to accommodate this request. The defendant would like this court to know that he is prepared to pay in advance for any and all costs that could or might be incurred by the Marshall Services to accommodate Mr. Marcello in attending his mother's wake and funeral. He is also prepared to pay the U.S. Marshall Services to transport Marshalls from other courthouses, for example, Indiana if there is a shortage of man

power. The defendant asserts to this court that he is not well versed on the inner workings of the Marshall Services, but does not see how on a Sunday afternoon the Marshall Services would be short of men inasmuch as the courthouse is closed and the Marshalls should have enough men to cover this request.

4. Defense Attorney Alexander M. Salerno submits to this court that there is precedent for this release of this type. He has been involved in cases where defendants have been released, in fact co-defendant James Marcello was involved in the case of U.S. vs. Marcello, et al where Anthony Zizzo, one of the defendants, was released by Judge Plunkett under same or similar circumstances to attend the funeral of his wife. Therefore, the defendant asserts that this has been done in the 7th Circuit on prior occasions.

5. In addition to Marshall security, if this court requires additional collateral the defendant is willing to post as and for bond all of the real estate previously offered as security in his original Bond Motion to asuage any concerns by this court or by the prosecution of this case. The defendant will also submit to any other conditions the court deems just and proper in the circumstances. Mr. Marcello, two sisters and a son are the only immediate family who remain alive at this point, therefore, the family relies on Michael Marcello for physical and emotional support during their time of need.

WHEREFORE, the defendant prays this Honorable Court:

- a. Order the defendant released into the custody of the U.S. Marshall Services from Sunday September 11, 2005 at 1:00 p.m. to Sunday evening at 8:00 p.m. and, again, on Monday, September 12, 2005 from 8:30 a.m. until 1:30 p.m.;
- b. That the Defendant Michael Marcello be ordered to pay to the U.S. Marshall Services, no later than end of business Friday, September 9, 2005, a certified check in the amount requested by the U.S. Marshall Services to pay for the costs of transporting and man power needed to attend said wake and funeral;
- c. For further relief that is just and proper under the circumstances.

Respectfully submitted,

Alexander M. Salerno
Attorney for the Defendant

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