

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Criminal Action
v.)	No. 12-05021-01-CR-SW-RED
)	
TERRY ALTON PARKER,)	
)	
Defendant.)	

**GOVERNMENT’S MOTION FOR PRETRIAL DETENTION AND FOR
A HEARING PURSUANT TO 18 U.S.C. §§ 3142(e) and (f)**

The United States of America, by and through David M. Ketchmark, Acting United States Attorney for the Western District of Missouri, and undersigned counsel, respectfully requests that the Court order the defendant detained pending trial, pursuant to 18 U.S.C. §§ 3142(e) and (f)(2)(A) and (B). The grounds for this motion are that the United States believes there exists a serious risk that the defendant will flee, and a serious risk that the defendant will obstruct or attempt to obstruct justice, and attempt to threaten and intimidate prospective witnesses. Further, the United States believes that there is no condition or combination of conditions set forth in 18 U.S.C. § 3142(c) that will reasonably assure the appearance of the defendant at trial, or reasonably assure that the defendant will not attempt to obstruct justice.

Supporting Suggestions

1. Title 18, United States Code, Section 3142(f)(2) provides that a hearing shall be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant’s appearance and the safety of any other person in the community upon a motion of the attorney for the Government or upon the judicial officer’s

own motion, when there is a serious risk that the defendant will flee, or when there is a serious risk that the defendant will “obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.”

2. Undersigned counsel has been advised that Defendant TERRY ALTON PARKER has been arrested, and within the hour is scheduled to appear before a United States Magistrate Judge in the Southern District of Texas. Thereafter, it is expected that the defendant will be transported to this district for his initial appearance on the indictment, filed in this case on May 8, 2012.

3. One factor to consider in determining whether the defendant should be ordered detained is the nature and circumstances of the offense charged. 18 U.S.C. §3142(g)(1). In the instant case, the defendant stands charged with twenty-three felony counts and a forfeiture allegation. Counts One through Six charge him with Bank Fraud, in violation of 18 U.S.C. § 1344. Counts Seven through Seventeen charge him with Money Laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i). Counts Eighteen Through Twenty charge him with Wire Fraud, in violation of 18 U.S.C. § 1343. Counts Twenty-one and Twenty-two charge him with Aggravated Identity Theft, in violation of 18 U.S.C. § 1028A. Count Twenty-three charges him with Tampering with a Witness or Victim, in violation of 18 U.S.C. § 1512(d)(2). The Government contends that the defendant defrauded an 84-year-old, man who had been the victim of the May 22, 2011 tornado that destroyed a large part of Joplin, Missouri. The victim, identified as “H.B.,” had been battling cancer for the past eight years, and was constantly at home caring for his 88-year-old wife, who required home care and nursing assistance.

4. As charged in the indictment and as the Government will prove at trial, H.B. hired the defendant to repair his home, in Joplin, Missouri, and the defendant subsequently befriended

H.B. and began to use the defendant's downstairs office as his own office to run his contracting business. The defendant then proceeded to "take over" a large part of the victim's life, collecting his mail, arranging for delivery of his personal belongings from storage, and even hiring caregivers in his home. In or around late November 2011, the defendant persuaded H.B., who did not own a computer, that he needed to get Internet access at his home, so that the defendant could order supplies online and conduct other business via the Internet.

5. Subsequently, the defendant set up an e-mail address in the victim's name, and, using stolen personally identifying information, established a PayPal account in the victim's name, and signed H.B. up for online banking services without his knowledge. The defendant then electronically siphoned \$34,420.00 from H.B.'s account without his knowledge and laundered it through the phony H.B. PayPal account to his own, and then laundered the funds through his business bank account. Additionally, the defendant stole a check from H.B.'s checkbook, made it out to his business in the amount of \$38,640.00, forged H.B.'s signature, and deposited it to his business account. The defendant prevented H.B. from learning that he had stolen a large part of his life's savings by electronically discontinuing H.B.'s receipt of paper bank statements to his home address, and by intercepting his mail.

6. Additionally, the defendant stands charged with Witness Tampering. On February 27, 2012, immediately following H.B.'s report of the thefts to bank officials and filing of a police report, the defendant filed a complaint with the Missouri Department of Health and Senior Services, which he then knew to be false, alleging that H.B. had abused his wife by striking her and failing to give her proper medication as prescribed by her physician.

7. Another factor to consider in determining whether the defendant should be ordered detained is the weight of the evidence against the defendant. 18 U.S.C. § 3142(g)(2).

Here, the evidence of the defendant's guilt is overwhelming. In an exceptionally thorough investigation, FBI Special Agent Mark Culp ("SA Culp"), assisted by PayPal's investigators, has confirmed all of the defendant's online activity and has matched the locations from which H.B.'s bank account and the two PayPal accounts at issue were accessed to the defendant's known locations. For instance, when the electronic accounts were being accessed from an Internet Protocol ("IP") address assigned to Downstream Casino, in Oklahoma, the investigator confirmed that the defendant had stayed at Downstream Casino that night, by way of a hotel invoice and credit card charge. Further, PayPal loss prevention personnel attempted to contact H.B. to confirm transactions the defendant was conducting on the PayPal account he established in H.B.'s name, and preserved two recordings of telephone conversations in which the defendant claimed to be H.B., and provided H.B.'s personally identifying information in order to impersonate H.B. and perpetrate the fraud. In the second conversation, H.B. answered the telephone, and when he did not understand what the call was about, gave the telephone to the defendant who then proceeded to impersonate H.B.

8. Another factor to consider in determining whether the defendant should be ordered detained is the history and characteristics of the defendant. 18 U.S.C. §3142(g)(3). In that regard, it is significant that when his theft was discovered, the defendant immediately departed the Western District of Missouri. The defendant was arrested in the Southern District of Texas, when after multiple attempts the arresting agent, FBI Special Agent Jack Walker ("SA Walker"), finally persuaded the defendant to participate in an interview. It should be noted that SA Culp and SA Walker made numerous attempts to locate the defendant, and placed multiple calls to his mobile telephone; when SA Walker was able to speak with the defendant, the defendant was evasive regarding his whereabouts.

9. Moreover, the defendant lacks substantial ties to this area. He is the title owner of no assets in this Western District of Missouri; the home in Nixa is in the name of the defendant's wife. The defendant's home repair business, Alliance Contracting of Nixa, LLC, is in the name of his son. Further, SA Walker, from the FBI's Houston Field Office, states that during the two weeks he investigated the defendant's whereabouts, he discovered that the defendant has substantial ties to the Galveston Island area of Texas. SA Walker, who is familiar with the Galveston Island area of Texas, advises that it is an area in which it is possible to easily evade detection for long periods of time.

10. Further, the defendant has in the past told H.B. that he wanted to move to Honduras to live on the beach, and that his brother's wife was from Honduras. And during the course of the investigation, SA Culp obtained a November, 2011 e-mail from one of the defendant's accounts in which the defendant makes an inquiry regarding a science program at St. James Caribbean Medical school in the Netherland Antilles. The Government submits that the timing is not a coincidence, and emphasizes that this was the same month in which the defendant began to steal money from H.B.'s account.

11. Further, the Government notes that as of yet, not a dime of the money the defendant stole from H.B. has been recovered, leaving the defendant with the means to remain at large.

12. Also, as previously mentioned, proof of the defendant's guilt is overwhelming, and based on his past record, the defendant knows he faces a substantial prison sentence. Specifically, the defendant has a prior federal conviction for wire fraud, in this district, before the same judge assigned to the instant case, in which the defendant was fortunate to receive a probationary sentence. *United States v. Terry A. Parker*, No. 02-3084-CR-S-RED (Jan. 30,

2003). It is quite reasonable for the defendant to conclude that his sentence in this case is likely to be much longer. His advisory sentencing range under the Guidelines will be at least 57 to 71 months,¹ and the defendant can expect no leniency given his prior conviction. In fact, given the nature and circumstances of the instant offense, the defendant must know there exist substantial grounds for a sentencing judge to depart upward. Additionally, the defendant stands charged with two counts of Aggravated Identity Theft, each carrying a mandatory two-year prison sentence consecutive to his sentence on all other counts of conviction.

13. Finally, the Government believes there is a substantial risk that the defendant will attempt to obstruct justice if he is not ordered detained and does not flee. The defendant stands charged with tampering with a witness or victim, for falsely reporting to the Missouri Department of Health and Senior Services that the 84-year-old victim had abused his wife.

14. Additionally, defendant has verbally harrassed victim's daughter, and in November 2011 he attempted to intimidate one of H.B.'s care-givers, identified in the indictment as "L.S.," who had expressed concern regarding the defendant's taking advantage of H.B. In response, the defendant told L.S. that she should be careful how she treated him (Parker), because one day H.B.'s house would belong to him. Further, the defendant has hired a number of caregivers in the victim's home, at least one of whom currently still works there, and the Government does not believe the defendant would comply with an order to not contact those potential witnesses, for the purpose of influencing their testimony.

¹The Government bases this estimate upon a base offense level of seven (U.S.S.G. § 2B1.1(a)(1)), an eight-level enhancement for a loss amount greater than \$70,000 (§ 2B1.1(b)(1)), a two-level enhancement for use of sophisticated means (§ 2B1.1(b)(10)), a two-level enhancement for use of authentication feature (§ 2B1.1(b)(11)), a two-level adjustment for money laundering (§ 2S1.1), a two-level adjustment for a vulnerable victim (§ 3A1.1(b)(1)), and a two-level adjustment for obstruction of justice (§ 3C1.1). The Guidelines range could be higher than 57-71 months, depending upon the defendant's criminal history category.

Conclusion

The Government respectfully submits that the nature and circumstances of the charged offenses, the weight of the evidence, the defendant's history and characteristics, and the substantial likelihood that the defendant would flee or obstruct or attempt to obstruct justice, each demonstrate that there is no condition or combination of conditions set forth in 18 U.S.C. § 3142(c) that will reasonably assure the appearance of the defendant as required and the safety of other persons and the community.

WHEREFORE, the United States requests a pretrial detention hearing, three-day continuance of the pretrial detention hearing, and that the defendant be detained pending trial.

Respectfully submitted,

DAVID M. KETCHMARK
Acting United States Attorney

By */s/ Steven M. Mohlhenrich*

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CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which sent e-mail notification of such filing to all CM/ECF participants in this case, and I hereby certify that I have mailed by United States Postal Service the foregoing documents to all non-CM/ECF participants in this case.

/s/ Steven M. Mohlhenrich

STEVEN M. MOHLHENRICH
Assistant United States Attorney