

No. 05-16662-GG

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

UNITED STATES OF AMERICA,

Appellee

v.

HARRISON NORRIS, JR.,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

BRIEF FOR THE UNITED STATES AS APPELLEE

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Counsel for Intervenor United States of America hereby certifies, in accordance with F.R.A.P. 26.1 and 11th Cir. R.26.1-1, that the following persons may have an interest in the outcome of this case and were not included in the appellant's certificate of interested persons and corporate disclosure statement:

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N.H., Victim

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D.M., Victim

K.M., Victim

L.M., Victim

Harrison Norris, Jr., Defendant-Appellant

K.R., Victim

S.T., Victim

T.W., Victim

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STATEMENT REGARDING ORAL ARGUMENT

Because the legal issues presented in this appeal are straightforward, the United States does not believe that oral argument is necessary. However, the United States does not object to oral argument should the Court feel it would be useful.

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BRIEF FOR THE UNITED STATES AS APPELLEE

STATEMENT OF JURISDICTION

The district court had jurisdiction under 18 U.S.C. 3231. The district court entered an order revoking defendant's release on November 18, 2005 (RE Doc. 63),¹ and defendant filed a timely notice of appeal on December 1, 2005 (RE Doc. 70). This Court has jurisdiction pursuant to 18 U.S.C. 3145 and 28 U.S.C. 1291.

¹ "RE Doc. ___" or "RE Doc. ___, p. ___" refer to the document number or document and page numbers for documents contained in the Record Excerpts. "Doc. ___, p. ___" refers to the document number on the district court docket sheet and page number within the document of documents not included in the Record Excerpts. "Def. Br. ___" refers to page numbers in defendant's opening brief to this Court.

STATEMENT OF THE ISSUE

Whether the district court properly granted the government's motion for revocation of defendant Norris's release pending his trial based on the court's finding that no conditions of release would reasonably assure the safety of the community.

STATEMENT OF THE CASE

On October 12, 2005, a federal grand jury returned a nine-count indictment against defendant Harrison Norris and two co-defendants, charging them with conspiring to hold young women against their will, while forcing them to work as prostitutes in bars, motels, and homes in and around Atlanta, Georgia (RE Doc. 1). Specifically, the indictment charged Norris with one count of violating 18 U.S.C. 371, conspiracy to commit an offense against the United States (RE Doc. 1, pp. 2-13); two counts of violating 18 U.S.C. 1581(a) and 2, peonage and aiding and abetting (RE Doc. 1, pp. 13-14); two counts of violating 18 U.S.C. 1589 and 2, forced labor and aiding and abetting (RE Doc. 1, pp. 14-15); two counts of violating 18 U.S.C. 1590, trafficking with respect to peonage, slavery, involuntary servitude, or forced labor (RE Doc. 1, pp. 15-16); and two counts of 18 U.S.C. 1591 and 2, sex trafficking by force, fraud, or coercion, and aiding and abetting (RE Doc. 1, pp. 16-18).

Norris was arrested on October 17, 2005, and the United States filed a motion to detain Norris pending trial on October 18 (RE Doc. 18). On October 20, Magistrate Judge Hagy arraigned Norris and Norris pleaded not guilty (Doc. 51,

pp. 1-2). On the same day, the magistrate held a hearing on whether to release Norris on bond pending his trial (see generally Doc. 51). The United States proceeded by proffer, relying on the indictment and a recitation of supporting facts. Norris presented five witnesses on his behalf. At the end of the hearing, Magistrate Judge Hagy noted that Norris's witnesses were not particularly credible and that the government's cross-examination of them raised doubts about their ability to recall (Doc. 51, p. 186), but ordered Norris released on bond because the government proceeded by proffer rather than by calling the witnesses it presented to the grand jury (Doc. 51, p. 187). The judge entered an order of pretrial release and set the conditions of Norris's bond.

The United States subsequently filed a motion with the district court to revoke Norris's release order (RE Doc. 36). On November 16, District Court Judge Camp held a hearing on the United States' revocation motion (see generally Doc. 89). At the hearing, Judge Camp stated that he had reviewed the testimony presented to Magistrate Judge Hagy and would take it into account (Doc. 89, p. 6). Norris chose not to call any additional witnesses on his behalf (Doc. 89, p. 13). The United States called four witnesses who testified to facts in support of the allegations in the indictment. At the conclusion of the hearing, Judge Camp granted the government's motion for revocation of release based on his finding that no conditions of release would reasonably assure the safety of persons in the community (Doc. 89, p. 156; RE 63). The judge found the government's witnesses to be credible and Norris's witnesses not to be credible (Doc. 89, p. 156; RE Doc.

63, p. 6). The judge further found that Norris was accused of a serious crime, carrying the possibility of multiple life sentences (Doc. 89, p. 157; RE Doc. 63, p. 6). Moreover, the judge found that Norris has no visible means of livelihood, that there is a significant likelihood that Norris would abuse or intimidate the government's witnesses if released, and that Norris was on bond from a related state charge of false imprisonment when he engaged in many of the acts charged in the indictment (Doc. 89, pp. 156-157; RE Doc. 63, pp. 6-7).

Norris filed a timely notice of appeal on December 1, 2005 (RE Doc. 70).

STATEMENT OF FACTS

1. Indictment: As charged in the indictment, Norris is accused of holding young women against their will while forcing them to engage in prostitution in bars, motels, and homes in the Atlanta, Georgia area (RE Doc. 1). The indictment charges that, from April 2004 to August 2005, Norris and his co-defendants conspired to recruit and sometimes kidnap young women through physical force, by paying legal fines or bail for the women, and by using false pretenses such as offering to train the women as wrestlers (RE Doc. 1, p. 3). Norris is alleged to have then held the women in various residences, including in the two adjacent homes he owns in Cartersville, Georgia, and charged the women "rent" for staying there (RE Doc. 1, p. 3).

As further charged in the indictment, soon after the women arrived at Norris's residence, he initiated them into his prostitution business by transporting them to clubs in the Atlanta area, where the women were forced to dance with men

for money and ultimately to engage in prostitution with male customers (RE Doc. 1, p. 4). Norris also forced the women to engage in prostitution at other locations in the Atlanta area (RE Doc. 1, p. 4). Moreover, as part of the women's initiation into Norris' prostitution business, he sexually abused the women and subjected them to "cut parties" at which the women were forced to have sex with multiple men and women (RE Doc. 1, p. 4). As part of the conspiracy, Norris collected the money paid to the women, kept it in a locked safe, and did not allow the women to access it (RE Doc. 1, p. 5). He deducted rent, expenses, and "fines" for rules infractions from this money (RE Doc. 1, p. 5).

Norris maintained control over the women with the help of several seasoned prostitutes known as "team leaders" who ensured that the victims were never alone and who monitored all contact between the victims and anyone outside the home (RE Doc. 1, p. 5). Each new woman brought into Norris's home had her identification and cell phone confiscated (RE Doc. 1, p. 5). Norris then gave each woman an alias and a "rank," and assigned her to one of the "teams" (RE Doc. 1, p. 5). Further control was exerted over the women through the enforcement of strict rules, including regulation of what the women could eat and when they could sleep (RE Doc. 1, p. 5). Any "infractions" of the rules resulted in fines and deductions from the women's earnings (RE Doc. 1, p. 5). Through this system, Norris kept the victims in debt and told them that they could not leave until they paid off their ever-increasing debts (RE Doc. 1, p. 5). Moreover, Norris threatened the women

with physical violence and used physical violence against them when they expressed a desire to leave (RE Doc. 1, p. 6).

The indictment also includes the following charges relating to specific victims:

a. M.F.: In or about April 2004, Norris enticed and lured M.F.² into his car by offering her a ride. Once she was in the car, Norris transported her to his residences in Cartersville and informed M.F. that she would have to work for him as a prostitute (RE Doc. 1, p. 6).

b. K.M.: In or about May 2004, Norris enticed and lured K.M. to his residences and then informed her that she would have to work for him as a prostitute. Norris then confined K.M. to the residences and threatened her with bodily harm if she tried to leave (RE Doc. 1, pp. 6-7).

c. N.H.: In or about July 2004, Norris enticed and lured N.H. into his car and transported her to his residences in Cartersville. Norris confiscated N.H.'s mobile phone and thereafter did not allow her to use a telephone unless she was being monitored (RE Doc. 1, p. 7). From July through mid-August, 2004, Norris forced N.H. to live in his residences, and did not allow N.H. to leave the residences except when she was accompanied by one of the defendants or one of the team leaders. In or about July 2004, Norris paid a probation fine for N.H. and then told her that she "belonged" to him (RE Doc. 1, p. 7). While N.H. was forced to live at

² The victims are referred to by their initials in the indictment and in this brief in order to protect their identities and their privacy.

Norris's residences, Norris charged N.H. for her room, board, and other expenses, as well as for infractions of his strict house rules, and told N.H. that she could not leave Norris's service until she repaid all of the money she supposedly owed to him (RE Doc. 1, pp. 7-8). Norris forced N.H. to commit acts of prostitution and threatened to harm her if she refused. During the time N.H. was forced to act as a prostitute, Norris collected the money she received in exchange for sex acts (RE Doc. 1, p. 8).

d. L.M.: In or about July 2004, Norris forced L.M. to live at his residences in Cartersville. Norris forced L.M. to engage in acts of prostitution and threatened her with physical harm if she refused. Norris made those threats in front of several other women (RE Doc. 1, p. 8). During the summer of 2004, L.M. at one point refused to engage in prostitution and expressed a desire to leave Norris. In response, Norris physically assaulted L.M. and forced several other women to sexually assault L.M. (RE Doc. 1, p. 8).

e. T.W.: During the summer of 2004, Norris posted bond for T.W. and told T.W. that she had to work as a prostitute for Norris to repay her debt.³ He forced T.W. to live at his Cartersville residences and did not allow her to leave the residences except when she was accompanied by Norris, his co-defendants, or one of the "team leaders" (RE Doc. 1, p. 9). During the summer of 2004, Norris forced T.W. to have sex with him and threatened her with physical violence when she

³ Cedric Jackson, one of Norris's co-conspirators, introduced T.W. to Norris. Jackson first met T.W. when he solicited sexual services from her, at which time he forced her into his car, took her to his home, and forcibly sodomized her.

refused. He also forced her to engage in prostitution with other men and in sex acts with other young women (RE Doc. 1, p. 9).

f. K.R.: In or about August 2004, Cedric Jackson “traded” K.R. to Norris so that Norris transport K.R. to his residences and force her to work as a prostitute⁴ (RE Doc. 1, pp. 9-10). Norris confined K.R. to his residence and did not let her leave except when she was accompanied by a team leader (RE Doc. 1, p. 10). In or about August 2004, Norris told K.R. that she owed him money for her bond, as well as for room, board, and other expenses, including fines for rules infractions, and would have to work as a prostitute in order to repay the money (RE Doc. 1, pp. 10-11). Norris thereafter forced K.R. to engage in prostitution to repay her supposed debts. In or about August 2004, Norris traveled in a vehicle with K.R., N.H., and T.W. from Georgia to North Carolina, where Norris forced K.R. to engage in sex acts with other women (RE Doc. 1, p. 11).

g. S.T.: In or about June 2005, Norris enticed and lured S.T. to his Cartersville residences. S.T. was homeless at the time, and Norris promised that he could teach S.T. to be a professional wrestler (RE Doc. 1, p. 11). Norris confiscated S.T.’s identification and confined her to the residences except when she was accompanied by Norris, one of his co-defendants, or one of the team leaders. Norris forced S.T. to engage in prostitution and threatened her with

⁴ Earlier that month, Jackson had lured K.R. on a date with him, at which point he attempted to force her to engage in prostitution. After K.R. was arrested for loitering, Jackson bonded her out of jail and told her she would have to engage in prostitution in order to pay back her debts. Prior to handing K.R. over to Norris, Jackson confined K.R. to an apartment and sexually abused her.

physical harm when she expressed her desire to leave (RE Doc. 1, p. 11). He imposed debts on S.T. for rent, food, miscellaneous expenses, and “fines,” and told S.T. that she had to remain with Norris until she could pay off those debts (RE Doc. 1, pp. 11-12). Norris collected money in exchange for S.T.’s participation in commercial sex acts (RE Doc. 1, p. 12).

h. D.M.: In or about June 2005, Norris enticed and lured D.M. to his residences by promising to train D.M. to be a professional wrestler. Norris confiscated D.M.’s identification and confined her to the residences unless she was accompanied by Norris, his co-defendants, or a team leader (RE Doc. 1, p. 12). Norris forced D.M. to engage in prostitution and threatened her with physical harm when she stated her desire to leave. He imposed debts on her for food, rent, expenses, and “fines,” and told D.M. that she could not leave until she repaid the debts (RE Doc. 1, p. 12). Norris collected money in exchange for D.M.’s participation in commercial sex acts (RE Doc. 1, p. 12). In or about July 2005, Norris transported D.M, S.T., and other young women from Georgia to Michigan and did not permit D.M. or the other women to leave Norris’s service during that time (RE Doc. 1, pp. 12-13).

On the basis of these acts, all of which are set forth in the indictment, the grand jury indicted Norris on one count of violating 18 U.S.C. 371, conspiracy to hold young women in peonage, to obtain forced labor and services from young women, to traffic young women for the purposes of peonage and forced labor, and to traffic young women for commercial sex acts (RE Doc. 1, p. 13). In addition,

the grand jury indicted Norris on two counts of violating 18 U.S.C. 1581(a) and 2 for holding and attempting to hold K.R. and N.H., respectively, in a condition of peonage while aiding and abetting his co-defendants (RE Doc. 1, pp. 13-14).

Those offenses include charges of aggravated sexual abuse and attempts to commit aggravated sexual abuse (RE Doc. 1, pp. 13-14). In addition, the grand jury indicted Norris on two counts of violating 18 U.S.C. 1589 and 2, for obtaining forced labor from K.R. and N.H., respectively, by means of a scheme, plan, and pattern intended to cause the women to believe that they and other people would suffer serious harm and physical restraint if they did not perform such labor (RE Doc. 1, pp. 14-15). Those offenses include charges of aiding and abetting as well as aggravated sexual abuse and the attempt to commit aggravated sexual abuse (RE Doc. 1, pp. 14-15). Norris was further charged with two counts of violating 18 U.S.C. 1590, by recruiting, harboring, transporting, providing, and otherwise obtaining K.R. and N.H., respectively, for labor or services (RE Doc. 1, pp. 15-16). Those offenses include charges of aggravated sexual abuse and attempt to commit aggravated sexual abuse (RE Doc. 1, pp. 15-16). Finally, the grand jury indicted Norris on two counts of violating 18 U.S.C. 1591 and 2, by using force, fraud, and coercion to cause K.R. and N.H., respectively to engage in commercial sex acts, while aiding and abetting his co-defendants (RE Doc. 1, pp. 16-18).

2. Testimony By Government Witnesses: At the November 16, 2005 hearing before Judge Camp on whether to grant the government's motion to revoke

Norris's release, the government presented three law enforcement witnesses who testified in support of the facts alleged against Norris in the indictment.

Captain Keith Zganz and Sergeant Robert Harvey, both employed by the Smyrna Police Department in Smyrna, Georgia, testified about an incident that took place on August 17, 2004 (Doc. 89, pp. 49-62, 64-92). On that date, Officer Zganz was called to a store called City Trends in Smyrna, Georgia, to respond to a disagreement between a customer and an employee of the store (Doc. 89, p. 49). When he arrived at the store, a woman later identified as T.W.⁵ ran out of the store up to Officer Zganz and told him that she was being held against her will and needed help (Doc. 89, pp. 49-50). Another woman, later identified as "Chloe," followed T.W. out of the store, told Officer Zganz that nothing was wrong, and tried to coax T.W. back inside (Doc. 89, pp. 50-51). Officer Zganz accompanied the women inside the store where he found Norris with a total of seven women (including T.W. and Chloe) (Doc. 89, p. 50). In front of Norris, Officer Zganz asked the women whether they were being held against their will and they stated that they were not (Doc. 89, pp. 51-52). Officer Zganz became suspicious because all of the women answered in a similar fashion and because several of the women were dressed in a similar manner, so he called for additional officers and separated the women so that they could be interviewed apart from each other and Norris

⁵ Although the victims are identified by name in the hearing testimony, the government will refer to them by their initials, which is how they are identified in the indictment.

(Doc. 89, pp. 51-53). In addition to T.W., the women with Norris included N.H.⁶ and K.R. (Doc. 89, p. 70).

Officer Zganz testified that N.H. was interviewed in the back of a patrol car by Officer Thacker (Doc. 89, p. 54). He testified that N.H. was visibly upset and crying, and that she stated that Norris was holding her against her will and that she wanted to get away (Doc. 89, p. 54). N.H. requested that the police arrest her at the scene so that she could get away (Doc. 89, p. 54). Officer Zganz also testified that K.R. was interviewed at the scene by Sergeant Haygood, who told Zganz that K.R. was shaking and visibly upset and said that she was being held against her will (Doc. 89, pp. 54-55). K.R. also requested that she be arrested so that she could get away (Doc. 89, p. 55). Officer Zganz testified that both women were placed in patrol cars and taken to the police station to make it look as if they were being arrested, although they were not actually arrested (Doc. 89, p. 55). Officer Harvey also testified that N.H. said that she had been kidnapped and taken to Norris's residence about a month prior to the August 17, 2004 incident (Doc. 89, pp. 78-79). During the month that she stayed at Norris's residence, she said that she was not permitted to leave (Doc. 89, p. 79).

After responding to the scene, Officer Harvey interviewed T.W. (Doc. 89, p. 65). T.W. told Officer Harvey that she had been involved in prostitution prior to meeting Norris (Doc. 89, p. 65). She told him that Cedric Jackson gave her to

⁶ In the transcript of the November hearing, N.H.'s first name is erroneously spelled with the initial letter as "M" instead of "N."

Norris and told her that Norris would control her as his property (Doc. 89, pp. 65-66). She told Officer Harvey that Norris secured her release on bond from jail and told her that she had to work for him as a prostitute and live at his house (Doc. 89, p. 67). T.W. told the officer that Norris would take her and other girls to bars and night clubs where they would dance with men for money and then engage in sex acts with the men for money (Doc. 89, pp. 67-68). She said that the male customers negotiated a price for sex acts by talking to Norris and gave their money to Norris in exchange for receiving sex acts from the women (Doc. 89, p. 68). T.W. also told Officer Harvey that she was not permitted to leave Norris's residence when she wanted and that she and the other victims were not allowed out in public unless they were accompanied by a "team leader" (Doc. 89, p. 69). Officer Harvey testified that he noticed that the women were all wearing insignias on their shirts (Doc. 89, p. 69). T.W. told him that all the women who were brought to Norris's house were given a rank as if they were in a military structure (Doc. 89, p. 69). T.W. was considered a private and the team leaders were given a higher rank, such as sergeant (Doc. 89, p. 69).

T.W. told Officer Harvey that, on the night of August 16, 2004, Norris wanted to have sex with her, but that she didn't want to (Doc. 89, p. 73). She told the officer that Norris threatened to kill her (Doc. 89, p. 74). T.W. also told Officer Harvey that she saw Norris act violently toward women other than herself (Doc. 89, pp. 70-71). She told him of a time when several of them were in a hotel room in Atlanta and were performing something called a "cut party," which is a kind of

initiation into the group (Doc. 89, pp. 70-71). She told him that, at a cut party, the women had to perform sex acts on multiple men and women (Doc. 89, p. 71). She described this particular cut party and said that a woman named L.M. was ordered to do the party, but said that she didn't want to participate (Doc. 89, p. 71). T.W. described how Norris got angry, grabbed L.M., head-butted her, and threatened to throw her out the hotel window (Doc. 89, p. 71). T.W. told Officer Harvey that Norris then made L.M. strip naked and ordered the team leaders to sexually assault L.M. with dildos (Doc. 89, p. 71).

Officer Harvey testified that he later interviewed L.M. at the Cobb County Jail, and that L.M. corroborated T.W.'s story, as did N.H. when she was interviewed (Doc. 89, p. 72). L.M. corroborated all of the details of Norris's assault on her at the cut party, including the sexual assault by the other women using dildos (Doc. 89, p. 72). L.M. told Officer Harvey how she ultimately escaped from Norris; she stated that she was taken by a team leader to a Wal-Mart one day to buy toiletries and that she spotted someone she knew in the parking lot (Doc. 89, p. 72). L.M. told Officer Harvey that she bolted from the Wal-Mart and got in her friend's car, thereby escaping from the team leader (Doc. 89, p. 72). Both T.W. and N.H. told the police officers that Norris put "a hit" out on L.M., and that he was actively looking for her (Doc. 89, p. 73).

Officer Harvey also participated in the interview of K.R. at the police station after the August 17, 2004 incident (Doc. 89, p. 74). She told him that she was arrested in Atlanta and that Cedric Jackson bonded her out, after which he told her

that he owned her (Doc. 89, pp. 75-76). After raping K.R., Jackson turned her over to Norris, told her she was his property and that she would have to work for Norris (Doc. 89, pp. 76-77).

Officer Zganz testified that the police searched Norris and Norris's car – with Norris's consent – on August 17, 2004 (Doc. 89, pp. 56-57). In the car, they found four notebooks that appeared to be ledgers indicating moneys spent and owed by various women (Doc. 89, p. 57). They also found a number of sex toys, including several dildos, fur-lined handcuffs, and a bag of condoms (Doc. 89, p. 57).

As a result of the encounter and interviews on August 17, 2004, Officer Harvey testified that the police took out state warrants against Norris on three counts of false imprisonment based on three separate victims – N.H., T.W., and K.R. (Doc. 89, p. 64).

The government also presented the testimony of Officer Mark Bearer from the Bartow County Sheriff's Office, who testified about an incident that took place on August 2, 2005 (Doc. 89, pp. 26-47). Officer Bearer interviewed S.T. on August 2 or 3, 2005, and learned that, on August 2, S.T. told a sheriff's deputy at a convenience store that she was being held against her will at Norris's home (Doc. 89, pp. 26-27). S.T. said that another woman – D.M. – was also being held against her will by Norris (Doc. 89, pp. 26-27). S.T. told the police that she escaped from Norris's home by cutting a screen in the bathroom window and crawling out during the early morning hours (Doc. 89, p. 28). She told the officers that she had

originally met Norris at a gas station (Doc. 89, p. 28). At that point, she had been in jail for a while and had used methamphetamine (Doc. 89, p. 28). She said that Norris offered her a place to stay and offered to train her to be a professional wrestler (Doc. 89, p. 28). S.T. told the police that she was with Norris for eight weeks, during which time she earned money through prostitution and dancing in “Hispanic clubs” (Doc. 89, pp. 29-30).

During a trip to Detroit in July 2005, S.T. experienced some seizures, after which she told Norris she wanted to leave (Doc. 89, p. 30). Norris told her she could not leave until she had paid back the debt she incurred (Doc. 89, p. 30). Norris then told S.T. that she had to “take one for the team” and perform oral sex on another woman (Doc. 89, p. 33). When she refused, Norris threw a large handful of condoms at her, poked her in the chest with his finger, and told her he would knock her through the wall (Doc. 89, p. 33). Officer Bearer testified that S.T. said she believed Norris’s threats (Doc. 89, p. 33). She told the police that she feared physical violence and was afraid that, if she tried to leave, she would be given to another pimp (Doc. 89, p. 36).

S.T. was not permitted to leave the company of the team leaders or other chaperones and was not allowed to retain control of her identification card (Doc. 89, p. 30). S.T. told the police that Norris used four women who were with him voluntarily as team leaders (Doc. 89, pp. 30-31). She told the police about the various ways in which Norris ran up the girls’ debt to him and said that she was not allowed to physically possess any of the money she earned (Doc. 89, pp. 31-32).

She also told the police about the ranking system employed by Norris and described how Norris would take the insignia pins and push them into the women's chests, breaking the skin, when they achieved various ranks (Doc. 89, pp. 34-35).

S.T. also told the police that another woman, D.M., was being held against her will at Norris's house (Doc. 89, pp. 26-27). D.M.'s mother was also at the convenience store talking to the police (Doc. 89, p. 26). Two sheriff's deputies went to Norris's residences, knocked on the door and asked for D.M. (using her wrestling alias) (Doc. 89, p. 37). The officers told D.M. that her mother was at the convenience store and asked D.M. whether she wanted to leave (Doc. 89, p. 37). D.M. asked to speak to her mother on the phone and then said that she wanted to leave (Doc. 89, p. 37). D.M. told the rest of the people in Norris's house that she had to leave because the police told her that her mother had been in a serious car accident (Doc. 89, p. 37). Her mother had not in fact been in an accident, nor had the officers told D.M. that she had (Doc. 89, p. 37).

D.M. told the police that she first met Norris at a convenience store, where he told her he had a wrestling business (Doc. 89, p. 37). She talked to some of the girls in Norris's car, later visited his residence, and decided to move in (Doc. 89, pp. 37-38). She told the police that she had no idea about the prostitution until the first night they went out to a club, which was about two weeks after she moved in (Doc. 89, p. 38). D.M. told the officers that they went to a club where the women were supposed to dance with men in exchange for five dollars (Doc. 89, p. 38). When one of the men she danced with asked her to perform a sexual act, D.M.

spoke to Norris about it, and he told her to do it (Doc. 89, p. 38). She indicated that she did not have any choice in the matter (Doc. 89, p. 38).

D.M. told the police that she was not permitted to keep any of the money she earned through prostitution because the money was turned over to Norris (Doc. 89, p. 39). She said that she didn't leave because she feared physical violence (Doc. 89, p. 39). When she first arrived at Norris's one of the other women spoke to D.M. of being beaten and showed her pictures of her bruised body, saying that she was beaten for defying Norris (Doc. 89, p. 39). D.M. said that she was never left alone, and was always chaperoned by Norris or a team leader (Doc. 89, p. 39). She also told the police that the women were supposed to have sex with Norris (Doc. 89, p. 40).

Officers Bearer and Harvey specifically testified that they found the women they interviewed to be credible (Doc. 89, pp. 40, 92).

3. Testimony By Norris's Witnesses: At the October 20, 2005 hearing before Magistrate Judge Hagy on whether to grant the government's motion to detain Norris, Norris presented five witnesses on his behalf. Judge Camp relied on their testimony in addition to the testimony of the government's witnesses on November 16.

Norris called Leslie Smith and Michelle Achuff (Doc. 51, pp. 34-65, 66-99), both of whom were identified as "team leaders" in Norris's organization (Doc. 51, pp. 79, 176). He also called Dory Brevard (Doc. 51, pp. 101-118), the ostensible president of his wrestling business, and Rob Terry (Doc. 51, pp. 119-146), a fellow

former professional wrestler. Finally, he called his wife Audrey Norris (Doc. 51, pp. 148-180).

Leslie Smith, who admitted at the hearing that she lied to a federal agent in an August 2005 interview (Doc. 51, pp. 47, 51-52), testified that she voluntarily moved into Norris's residences in January 2005 and lived there from then until at least the time of the hearing (Doc. 51, p. 37). She testified that she lived with and continues to live with Norris in order to train to be a wrestler (Doc. 51, p. 37). Smith described a strict daily regimen of training, including exercise and various rules of conduct (Doc. 51, p. 38). She testified that they do not train with any professional wrestlers, instead holding training matches with each other in the ring behind Norris's house, after some of which Norris pays them between 50 and 100 dollars (Doc. 51, p. 42). Smith testified that she believes that Norris funds his wrestling business and supports all of the women who live in his residence by relying on a settlement he got in a lawsuit against a wrestling company (Doc. 51, p. 44). In the nine months she lived with Norris prior to the hearing, Smith said that Norris paid her between 400 and 500 dollars total (Doc. 51, p. 46). She testified that she has paid and some rent when she can – between 25 and 50 dollars – although she admitted that she had told Agent Mary J. Mangrum that she paid 200 dollars per month in rent when Agent Mangrum interviewed her in August 2005 (Doc. 51, p. 47). Smith also testified that Norris does not keep an account of the amount of money she owes him (Doc. 51, p. 48).

Smith corroborated the allegations in the indictment that Norris took her and other women to “Mexican clubs” where the women danced with men for money, although she admitted that she told Agent Mangrum in August that she never goes dancing (Doc. 51, pp. 50-52). She testified that the men she danced with never asked for sex and that she has never been paid for sex (Doc. 51, p. 52). Smith testified that Norris did not dance when he accompanied the women to the clubs, but was there for their protection (Doc. 51, p. 54). She further testified that she had gone on family trips with Norris to North Carolina and Michigan (Doc. 51, p. 55). She said that she never paid for any part of the trips (Doc. 51, p. 56).

Smith testified that approximately eight women lived in Norris’s residences during the time she was there (Doc. 51, p. 60). She also corroborated the allegation in the indictment that S.T. left the house early in the morning by cutting her way through a window screen (Doc. 51, p. 61). Smith testified that S.T. had mentioned her desire to leave the house but that Smith did not know why she cut her way through the screen instead of walking out the front door (Doc. 51, pp. 61-62). Smith also testified that D.M. left when the police came to the door and told D.M. that her mother was sick (Doc. 51, pp. 62-63).

Smith testified that she was aware that Norris had her identification card on him when he was arrested, and stated that she has never had sex in exchange for money (Doc. 51, p. 64). She also testified that she had not seen any physical or sexual abuse, any prostitution, or any drug use while she had been in the house (Doc. 51, p. 39). Smith testified that she had not seen any of the women threatened

during her time in the house, and that the women in the house were free to leave whenever they wanted (Doc. 51, pp. 39-40).

Michelle Achuff also testified on behalf of Norris. Achuff, who also admitted at the hearing that she lied to a federal agent in an August 2005 interview (Doc. 51, pp. 78-79), testified that she had lived with Norris and his family for three years, ever since he recruited her for wrestling by driving up next to her as she was walking to work one day (Doc. 51, p. 67). Achuff testified that between 11 and 13 girls had lived in Norris's residences during her time there (Doc. 51, p. 68). Achuff stated that Norris has supported her for the last three years, paying for her rent, food, toiletries, and vacations, and that she believes he supports all of the women in the house (Doc. 51, pp. 75-77). According to Achuff, Norris does not have a full time job; she stated that she believed Norris paid for everything with the proceeds from his lawsuit settlement (Doc. 51, p. 77).

Achuff corroborated the allegation in the indictment that Norris employed "team leaders" and testified that she is one of four team leaders working for Norris (Doc. 51, p. 79). In addition to her, the other team leaders are Leslie Smith, who testified in support of Norris, Aimee Allen, who is one of Norris's co-defendants, and a woman named Jessica Hamrick (Doc. 51, p. 79). Achuff contradicted Smith's testimony that Norris did not keep track of the money the women spent and owed, testifying instead that Norris indeed keeps track of what each woman spends and how much each woman owes to Norris (Doc. 51, pp. 83-85). She further testified that Norris keeps track of whether the women violate the house

rules and that Norris fines the women monetarily for rules infractions (Doc. 51, pp. 85-86).⁷ Achuff stated that she does not know how much money she owes to Norris and speculated that, when women leave Norris without settling their debts, Norris “chalk[s] it up to a loss” (Doc. 51, p. 99).

Achuff testified about dancing for money at the Mexican clubs, stating that Norris accompanies the women for their protection but does not dance (Doc. 51, p. 90). She stated that she does not perform sex acts for money and has never been forced to have sex with Norris (Doc. 51, pp. 92-93). Achuff stated that she was present at the incident in Smyrna, Georgia, in August 2004, as was Norris’s co-defendant Aimee Allen (Doc. 51, p. 69). She stated that she was not aware that the police found sex toys, lingerie, and dozens of condoms in Norris’s car at that time (Doc. 51, pp. 87-88). She also testified that S.T. left Norris’s residence through a window, but said she did not know why (Doc. 51, p. 89). And she testified that D.M. left the house with the police, saying that the police told her that her mother was sick (Doc. 51, p. 89). Achuff further testified that she has never witnessed any physical or sexual abuse, and has never seen any prostitution or drug use (Doc. 51, pp. 67-68). She stated that, although there are strict rules in the house, nobody has ever been prevented from leaving (Doc. 51, p. 72).

⁷ Over the course of a few pages of transcript testimony, Achuff gives inconsistent testimony on this point, first denying that Norris sanctions the women monetarily for rule infractions, then confirming such sanctions, and then denying them again; first confirming that she told Agent Mangrum that Norris imposes such sanctions, and then stating that she didn’t remember telling Agent Mangrum that (Doc. 51, pp. 85-87).

Norris also presented testimony from Dory Brevard, who is the nominal president of Norris's wrestling company Star South Championship Wrestling Alliance (Doc. 51, pp. 101, 108). She testified that she is not aware of Norris making any money with his business and is not aware that Norris has any other source of income (Doc. 51, pp. 114-115). Brevard testified that none of the women she has interacted with at Norris's residence have mentioned being abused, being forced into prostitution, or being held against their will (Doc. 51, pp. 103-104). She also testified that she has never been alone with any of the women (Doc. 51, p. 111). She stated that she does not go to the Mexican clubs with Norris and the women and that she does not know about the ranking and team leader system in the house (Doc. 51, pp. 111-113).

Rob Terry also testified in support of Norris, stating that he has known Norris through the wrestling community for eight years (Doc. 51, pp. 119-120). He testified that he spends between two and five hours at Norris's residences two to three days per week, and stated that none of the women who live there has ever been abused in his presence (Doc. 51, pp. 121, 126). He also stated that he is not aware of Norris ever earning any money from promoting women's wrestling (Doc. 51, p. 146). Terry also testified that he is aware that some people in the community suspect that the women who live with Norris are prostitutes, but said that he does not believe that is the general consensus (Doc. 51, pp. 140-141).

Finally, Audrey Norris, Norris's wife, testified on his behalf. She stated that they have been married for 17 years and have a 13 year-old daughter (Doc. 51, p.

148). She testified that, before moving to Cartersville, the Norrises owned a house in Kennesaw, which they lost when they declared bankruptcy (Doc. 51, pp. 148-149, 156). Mrs. Norris testified that her husband received a lawsuit settlement in 2003, at which time she stopped working (Doc. 51, p. 150). She testified that they have been living off of the settlement money since then, and that Norris used that money to buy the Cartersville residences, build his wrestling ring, and support the women who lived with them (Doc. 51, pp. 151-152). She stated that all of the settlement money has been spent and that she is going to start working again (Doc. 51, p. 151). She further stated that Norris has not made any money from his wrestling business (Doc. 51, pp. 152, 157).

Mrs. Norris testified that the women went out to clubs with her husband some nights and that sometimes he didn't come home until the morning (Doc. 51, pp. 164-165). She testified that most nights Norris did not sleep in the same room as she (Doc. 51, p. 167). Mrs. Norris stated that, as far as she knows, Norris doesn't have a sexual relationship with the other women in the house, but admitted that Norris has a four year-old son with a woman who was living in the house at the time she got pregnant and that Mrs. Norris did not know they had a sexual relationship until that woman got pregnant (Doc. 51, pp. 168-169).

Mrs. Norris testified that she was not aware that the police who searched her husband's car in Smyrna found sex toys and several dozen condoms (Doc. 51, p. 173). She testified that she and her husband do not use sex toys and that, although they do use condoms, she does not know why he would have so many in his car

(Doc. 51, pp. 173-174). She also verified that S.T. left their residences by cutting through a screen in the bathroom, but said she did not know why S.T. did not just walk out the front door (Doc. 51, pp. 175-176). Finally, Mrs. Norris testified that she was aware of her husband's use of team leaders and identified Aimee Allen, Michelle Achuff, Leslie Smith, and Jessica Hamrick as the team leaders (Doc. 51, p. 176).

4. Proffered Evidence: Finally, both the government and Norris proffered certain evidence to the court. The magistrate and district court judges heard that Norris was arrested in Fulton County in 2001 on a state charge of pimping, and arrested in Cobb County in 2004 on state charges of false imprisonment (Doc. 51, pp. 21-23; Doc. 89, pp. 8-9), though he has never been convicted of a crime (Doc. 51, p. 28; Doc. 89, p. 13). The United States also proffered that Norris has had no legitimate employment since 2002, and that he failed to file tax returns for at least 2002 and 2003 (Doc. 51, pp. 25-26). The United States further proffered that Norris's alleged wrestling business, Star South Championship Wrestling Alliance, does not make any money and is not registered as a company in the State of Georgia (Doc. 51, pp. 184-185). Norris proffered that he turned himself into the authorities when he learned that they had a warrant for his arrest (Doc. 51, p. 180), that he had complied with the pretrial release conditions that the magistrate judge set for him, and that he was actively seeking employment (Doc. 89, p. 117).

STANDARD OF REVIEW

This Court gives plenary review to a district court's decision to detain a defendant pending trial because that decision presents a mixed question of law and fact. *United States v. Hurtado*, 779 F.2d 1467, 1471-1472 (11th Cir. 1985); see also *United States v. Quartermaine*, 913 F.2d 910 (11th Cir. 1990). However, this Court must not disturb the district court's findings of fact unless they are clearly erroneous. *Hurtado*, 779 F.2d at 1472.

SUMMARY OF ARGUMENT

Defendant Harrison Norris potentially faces eight life sentences on charges of committing numerous acts of violence and brutality against vulnerable young women. As set forth in detail in the indictment, which is entitled to deference, Norris stands accused of luring some young women to his home and of kidnapping others outright for the purpose of forcing the women to engage in prostitution on Norris's behalf. The indictment accuses Norris of forcing his victims to live in his homes, where they were not permitted to leave the house or do anything outside the presence of Norris or one of his co-conspirators. Norris is further accused of using physical violence and threats of physical violence to compel the women to engage in prostitution. Moreover, the indictment specifies that Norris used financial coercion in order to control his victims and to facilitate his sex trafficking enterprise.

At Norris's detention hearing, the district court heard consistent and reliable testimony from law enforcement witnesses who had interviewed many of Norris's

victims. The officers' testimony corroborated the charges in the indictment, and the district court found that testimony to be credible. In contrast, the district court found that Norris's five witnesses lacked credibility because they gave inconsistent and self-contradictory testimony, and because they retained financial or other connections to Norris and were therefore interested in the outcome. Moreover, the district court noted that two of Norris's witnesses admitted to having previously lied to a federal investigator.

The district court also heard a wealth of evidence that the witnesses in this case would be put in jeopardy were Norris to be released pending his trial. The charges in the indictment – charges that were borne out by testimony from law enforcement officers – demonstrate that Norris used a variety of means to control his victims' every move. Witnesses testified that Norris used not only financial coercion to control the young women he victimized, but also used physical violence and threats of violence to force his victims to engage in prostitution and otherwise obey his orders. Perhaps most significant, the district court heard testimony that Norris actively hunted down victims who had previously escaped from him with the intent to inflict physical violence on them.

Based on the evidence presented, the district court considered the factors set forth in the Bail Reform Act: the nature and circumstances of the charged offenses, the weight of evidence against Norris, Norris's personal history and characteristics, and the nature and seriousness of the danger to any person or to the community that would be posed were Norris to be released. The district court

correctly concluded, based on this evidence, that no condition or combination of conditions would ensure the safety of the community and ordered Norris detained pending his trial. This Court should affirm that conclusion. In the alternative, this Court should affirm the district court's detention order on the ground that the eight life sentences Norris is facing render him a flight risk.

ARGUMENT

THE DISTRICT COURT CORRECTLY DETERMINED THAT NORRIS SHOULD BE DETAINED PENDING HIS TRIAL

A. Standard For Pretrial Detention Under The Bail Reform Act Of 1984

Pursuant to the Bail Reform Act of 1984, 18 U.S.C. 3142, a judge may order the pretrial detention of a criminal defendant in certain circumstances. Because the United States far exceeded the showing necessary for such detention with respect to defendant Norris, this Court should affirm the district court's detention order. A detention order is subject to plenary review by this Court, although this Court should not disturb the district court's findings of fact unless they are clearly erroneous. *United States v. Hurtado*, 779 F.2d 1467, 1471-1472 (11th Cir. 1985); see also *United States v. Quartermaine*, 913 F.2d 910 (11th Cir. 1990).

The Bail Reform Act permits a judicial officer to order the detention of a defendant before trial where that officer "finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community." 18 U.S.C. 3142(e). As required by the statute, the detention order in this case was issued after a hearing and upon a motion by the United States for revocation of release in a case that involves a crime

of violence. See 18 U.S.C. 3142(f). Because the instant case involves a crime of violence, the district court may order detention upon a showing of *either* dangerousness *or* a risk of flight; the United States need not show both. *United States v. King*, 849 F.2d 485, 488 (11th Cir. 1988).

In ordering the detention of Norris, the district court relied on several factors set out in the statute, including the “nature and circumstances of the offense charged;” the “weight of the evidence against” Norris; Norris’s character, employment, financial resources, and past conduct; “whether, at the time of the current offense or arrest, the person was * * * on other release pending trial * * * for an offense under Federal, State, or local law;” and “the nature and seriousness of the danger to any person or the community that would be posed by the person’s release.” 18 U.S.C. 3142(g). This Court has held that consideration of the factors listed in subsections 3142(g)(1) and 3142(g)(2) – namely, the nature and circumstances of the offense charged as well as the weight of the evidence against the defendant – present mixed questions of fact and law, and are therefore subject to plenary review. *Hurtado*, 779 F.2d at 1472. But consideration of the factors listed in subsections 3142(g)(3) and 3142(g)(4) – namely, the history and characteristics of the defendant as well as the nature and seriousness of the danger to any person or the community that the defendant’s release would present – pose purely factual questions subject to the more stringent “clearly erroneous” standard of review. *Hurtado*, 779 F.2d at 1472.

B. The District Court Correctly Concluded That The United States Met Its Burden Of Demonstrating That Norris Should Be Detained Pretrial In Order To Ensure The Safety Of Persons And The Community

The district court ordered Norris detained until his trial because it concluded that the United States met its burden of demonstrating by clear and convincing evidence that no combination of conditions would reasonably ensure the safety of the community – and of Norris’s victims in particular – should Norris be released pending trial. That conclusion was correct and should be affirmed by this Court. In his brief to this Court, Norris inaccurately depicts the evidence as evenly weighted in favor of and against pretrial detention. On the contrary, the district court correctly found that the weight of evidence is far in favor of detention.

To begin with, the district court correctly found the crimes of which Norris is accused are crimes of violence within the meaning of 18 U.S.C. 3156(a)(4). The court based this conclusion on the fact that the indictment alleges that Norris engaged in crimes committed by force or threat of force, and that the offenses by their nature involve a substantial risk that physical force may be used in committing the crimes (RE Doc. 63, p. 5). Norris does not challenge this conclusion on appeal.

In considering the evidence presented to the district court directly, and to the magistrate judge, the district court noted (RE Doc. 63, p. 6) that the grand jury’s return of the indictment against Norris, including detailed allegations of the specifics of the crimes charged, is entitled to deference and, as this Court has held, “conclusively demonstrates that probable cause exists implicating” Norris in the

crimes charged. *Hurtado*, 779 F.2d at 1477. That finding of probable cause was bolstered by the testimony of the government's law enforcement witnesses, who related in detail the accounts given to them by several of Norris's victims. As set forth in greater detail in the statement of facts, *supra*, the officers' testimony supported the key allegations in the indictment with respect to six of the eight identified victims, specifically N.H., L.M., T.W., K.R., S.T., and D.M. The officers' testimony confirmed that these women were forced to live at Norris's residences, and that Norris did not allow them to leave the premises or otherwise have contact with the outside world without the supervision of Norris or one of his accomplices (see, *e.g.*, Doc. 89, pp. 26-27, 39, 49-50, 54-55, 78-79, 69). The officers' testimony further confirmed that Norris forced these women to engage in prostitution in order to repay an ever-increasing sum of money that Norris claimed they owed to him (see, *e.g.*, Doc. 89, pp. 29-32, 38-39, 67-68). Moreover, the officers confirmed that Norris used physical violence and threats of physical violence in order to force the women both to remain with him and to work as prostitutes on his behalf (see, *e.g.*, Doc. 89, pp. 33-36, 39, 70-74). The court also heard testimony that Norris used physical violence to punish women who disobeyed him, used threats of physical violence as a means of coercing his victims to do his bidding, and actively pursued women who escaped from him with the intent to physically harm them (see, *e.g.*, Doc. 89, pp. 33-36, 39, 70-74).

The government's witnesses also testified about certain physical evidence uncovered by police officers that bolsters the allegations in the indictment. In

August 2004, Smyrna police officers found sex toys, lingerie, and dozens of condoms in Norris's car; such evidence supports the allegations of the victims that Norris forced them to engage in prostitution (Doc. 89, pp. 56-57). Indeed, Norris's own wife, who testified on his behalf, stated that she and her husband did not use sex toys (Doc. 89, pp. 173-174). Also found in the car were four log books indicating various moneys spent on behalf of and owed by Norris's victims (Doc. 89, p. 57). The log books support the allegations in the indictment that Norris maintained control over his victims in part by claiming that they owed him money and could not leave him or refuse to work as prostitutes until they repaid the money. Finally, in August 2005, officers who executed a search warrant on Norris's home found a screen in one of the bathrooms to be cut, thus supporting S.T.'s account of her escape (Doc. 89, p. 28). Indeed, three of Norris's own witnesses confirmed that S.T. left the house by cutting through the screen in a bathroom window (Doc. 51, pp. 61 (Smith), 89 (Achuff), 176 (Audrey Norris)).

The district court judge specifically stated that he found the government's witnesses to be credible (RE Doc. 63, p. 6). Moreover, the district court gave weight to the relayed accounts of the victims because those accounts were "consistent, and corroborated by physical evidence" (RE Doc. 63, p. 6). It is well-settled that "[c]redibility determinations are typically the province of the fact finder because the fact finder personally observes the testimony and is thus in a better position than a reviewing court to assess the credibility of witnesses." *United States v. Ramirez-Chilel*, 289 F.3d 744, 749 (11th Cir. 2002). The officers who

testified for the government stated that they found the victims they interviewed to be credible (Doc. 89, pp. 40, 92), and the district court noted that the officers' accounts of fear and desperation in the victims they encountered bolstered their credibility (RE Doc. 63, p.6).

Norris attempts (Def. Br. 11-13) to undercut the power of this testimony by emphasizing that the victims themselves did not testify and that the physical evidence itself was not presented to the district court. But it is well settled that hearsay evidence is admissible at detention hearings, and that both the government and the defendant may proceed by proffer rather than conducting a mini-trial. See *United States v. Gaviria*, 828 F.2d 667, 669 (11th Cir. 1987); 18 U.S.C. 3142(f) (“The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the [detention] hearing.”); see also *United States v. Acevedo-Ramos*, 755 F.2d 203, 207 (1st Cir. 1985) (“Congress did not intend to forbid the judicial officer to rely upon investigatory descriptions of evidence (and similar hearsay) where the judicial officer reasonably concludes that those descriptions, reports, and similar evidence, in the circumstances of the hearing, are reliable.”); *United States v. Smith*, 79 F.3d 1208, 1210 (D.C. Cir. 1996) (noting that every Circuit to have considered the matter has held that the government may proceed by way of proffer at detention hearings).

The district court contrasted the consistent and credible testimony of the United States' witnesses with the testimony of Norris's witnesses, whom he and the magistrate both found to be “generally not credible” (RE Doc. 63, p. 6; Doc.

51, p. 190). As noted by the district court, two of Norris's witnesses admitted to having lied previously to a federal investigator (RE Doc. 63, p. 6). In addition, most of Norris's witnesses contradicted themselves as well as each other in their accounts of how Norris ran his "wrestling" operation. Finally, the district court correctly found that all of Norris's witnesses had continuing ties to Norris and were therefore interested in the outcome (RE Doc. 63, p. 6). Specifically, Leslie Smith and Michelle Achuff were identified by other witnesses as two of the "team leaders" who assisted Norris in keeping the victims from leaving and forcing them to engage in prostitution (Doc. 51, pp. 79, 176). Moreover, both Smith and Achuff testified that Norris supported them financially (Doc. 51, pp. 47-48, 56, 75-76). Dory Brevard and Rob Terry are both involved in Norris's alleged wrestling business (see Doc. 51, pp. 101-102, 120-121). And Audrey Norris is Norris's wife (Doc. 51, p. 148).

The district court weighed the evidence in favor of Norris's detention – the allegations in the indictment, supported by the credible and consistent testimony of the United States' witnesses and proffered evidence – against the evidence in favor of Norris's release – five witnesses whom both the district court judge and the magistrate judge found to be interested in the outcome and lacking credibility – and concluded that the "weight of the evidence against Defendant Norris is strong" (RE Doc. 63, p. 6). This conclusion, subject to plenary review by this Court, is undoubtedly correct and should be affirmed.

In addition to considering the weight of evidence against Norris, the district court also considered his history and characteristics, pursuant to 18 U.S.C. 3142(g)(3). The district court found evidence indicating that Norris, if released, has a propensity to continue to engage in similar behavior. This finding of fact is supported by evidence demonstrating that Norris was arrested for pimping in 2001 (Doc. 51, pp. 22, 171; Doc. 89, p. 8), and for false imprisonment in August 2004 (Doc. 51, p. 21; Doc. 89, pp. 8-9), and that he engaged in many of the acts alleged in the indictment while released on bail for the false imprisonment charges. The district court further found that Norris has no verifiable source of income (RE Doc. 63, p. 7), a finding that is supported by the testimony of Norris's own witnesses that he did not make any money with his wrestling business (Doc. 51, pp. 114-115, 146, 152, 157), by the testimony of Norris's wife who stated that the money Norris received in a legal settlement was all spent (Doc. 51, p. 151), and by the information proffered by the government that Norris failed to file an income tax return in 2002 and 2003 (Doc. 51, pp. 25-26). The district court correctly concluded that Norris's lack of income "would provide a motive to continue to engage in [the indicted] conduct as a means of making money" (RE Doc. 63, p. 7). This Court may not disturb these factual findings unless they are clearly erroneous.

Finally, the district court correctly concluded that "the danger to the community is substantial should Norris be released" (RE Doc. 63, p. 7). As the district court noted, the evidence presented indicates a history of Norris's "using force and intimidation to achieve his objectives" (RE Doc. 63, p.7). Specifically,

the government presented evidence that Norris previously used threats and intimidation against women who are now government witnesses (see, *e.g.*, Doc. 89, pp. 33-36, 39, 70-74), and the district court found a risk that Norris would pose a threat to those witnesses were he to be released pending trial (RE Doc. 63, p. 7). Relying in addition on the fact that victims stated that Norris actively searched for women who escaped from him with the intent to harm them, as well as evidence that Norris used violence against women who refused his orders, the district court concluded that it could not “ignore the danger that exists to these possible witnesses, as well as to the public at large, were this Defendant to be released prior to trial” (RE Doc. 63, p.7). This finding of fact is also subject to the clearly erroneous standard of review.

In sum, the district court carefully weighed the evidence presented to him and to the magistrate judge, appropriately considered the factors enumerated in the statute, and correctly determined that the United States met its burden of proving by clear and convincing evidence that “no condition or combination of conditions will reasonably assure the safety of any other person or the community” (RE Doc. 63, p. 5).

C. In The Alternative, Norris’s Detention Is Justified Because He Poses A Risk Of Flight

The district court did not determine whether Norris should be detained in order to assure his appearance at trial both because the court did not need to reach that issue and because the court found that the United States had “ostensibly abandoned risk of flight as a basis for its motion for detention, choosing instead to

rely upon and argue only danger to the community” (RE Doc. 63, p. 4 n.1). Although the United States chose to emphasize that Norris’s release posed a danger to the community based on the strength of that argument, the United States also explicitly argued to the district court that “Norris is a flight risk” because he is “charged with continuous violent conduct that exposes him to eight life sentences” (RE Doc. 36, pp. 1, 10). Although the district court did not need to reach the question whether Norris is a flight risk because the court found that his release would pose a danger to the community, this Court may affirm Norris’s pretrial detention on the alternative ground that he is a flight risk.

The Bail Reform Act permits a judicial officer to detain a defendant before trial where the government demonstrates by a preponderance of the evidence that he is a flight risk. See *Quartermaine*, 913 F.2d at 917; *United States v. King*, 849 F.2d 485, 489 (11th Cir. 1988); *United States v. Medina*, 775 F.2d 1398, 1402 (11th Cir. 1985); 18 U.S.C. 3142(e). Norris poses a risk of flight because he is charged with conduct that exposes him to eight life sentences. This Court has held that a district court may consider the severity of the potential sentence a defendant faces in considering whether he poses a risk of flight. In *United States v. King*, 849 F.2d at 489, this Court affirmed a pretrial detention order where, *inter alia*, the defendant faced “numerous minimum mandatory ten-year sentences and [was] aware of damaging evidence against her.” The instant case is much more dramatic. Norris faces eight separate life sentences and is aware of considerable evidence against him. As outlined in the indictment and described by the United States’

witnesses at the November detention hearing, the United States is prepared to present the testimony of multiple victims – testimony that will be corroborated both by the testimony of law enforcement officers and by the presentation of physical evidence.

The district court's other findings further indicate that Norris is a flight risk based on the dramatic sentence he faces. As discussed *supra*, the district court found as a matter of fact that Norris has no verifiable means of financial support and that Norris's previous arrests had failed to deter him from engaging in further criminal conduct (RE Doc. 63, p. 7). Taken together with the severity of the penalty Norris is subject to, the evidence presented to the district court more than satisfies the United States' burden of demonstrating by a preponderance of the evidence that Norris poses a risk of flight if released pending trial.

CONCLUSION

This Court should affirm the district court's decision to order Norris detained pending trial.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that pursuant to Fed. R. App. P. 32(a)(7)(C), the attached Brief for the United States as Appellee is proportionally spaced, has a typeface of 14 points, and contains 10,777 words.

March 14, 2006

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CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2006, two copies of the foregoing BRIEF FOR THE UNITED STATES AS APPELLEE were served by overnight mail, postage prepaid, on the following counsel:

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