UNITED STATES DISTRICT COURT

for the

District of Connecticut

United States of America
v.
TIMOTHY W. BURKE
Defendant

Case No. 3:15MJ214(SALM)

DETENTION ORDER PENDING TRIAL

After conducting a detention hearing under the Bail Reform Act, 18 U.S.C. § 3142(f), I conclude that these facts require that the defendant be detained pending trial.

Part I—Findings of Fact

☐ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has previously been convicted of ☐ a federal offense ☐ a state or local offense that would have been a federal offense if federal jurisdiction had existed - that is

☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4)or an offense listed in 18 U.S.C. § 2332b(g)(5) for which the prison term is 10 years or more.

☐ an offense for which the maximum sentence is death or life imprisonment.

☐ an offense for which a maximum prison term of ten years or more is prescribed in ______________________ .*

☐ a felony committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses:

☐ any felony that is not a crime of violence but involves:

☐ a minor victim

☐ the possession or use of a firearm or destructive device or any other dangerous weapon

☐ a failure to register under 18 U.S.C. § 2250

☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state release or local offense.

☐ (3) A period of less than five years has elapsed since the ☐ date of conviction ☐ the defendant's release from prison for the offense described in finding (1).

☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition will reasonably assure the safety of another person or the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

☐ (1) There is probable cause to believe that the defendant has committed an offense

☐ for which a maximum prison term of ten years or more is prescribed in ______________________ .

☐ under 18 U.S.C. § 924(c).

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

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☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition will reasonably assure the defendant's appearance and the safety of the community.

Alternative Findings (B)

☑ (1) There is a serious risk that the defendant will not appear.

☐ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

The Court finds pursuant to 18 USC 3142(f)(2)(A) that the government has established by a preponderance of the evidence that the defendant poses a serious risk of flight.

Part II— Statement of the Reasons for Detention

I find that the testimony and information submitted at the detention hearing establishes by ☐ clear and convincing evidence ☑ a preponderance of the evidence that

there are no proposed or readily available conditions that would reasonably assure the appearance of defendant as directed. The government presented evidence that defendant deposited $1.5 million into a single account in 2015, largely in cash, and though defendant claims those funds are not available to him, the source and disposition of the funds are both cause for concern; defendant appears to be able to obtain large amounts of cash on short notice which presents a risk of flight. Further, defendant has made various differing representations about his net worth, cash flow, and assets in different contexts in recent months.
3142(g)(1) The Court finds that the nature of the offense is such that defendant could engage in this conduct anywhere, with minimal start-up resources. The offense charged involves numerous alleged misrepresentations, addresses, aliases, and financial accounts. The offense charged is very similar to an offense in New Jersey for which defendant served federal prison time from 2004-2007.
3142(g)(2) The government's evidence is strong, including mutliple witnesses and voluminous financial evidence.
3142(g)(3) The defendant has a history of alcohol abuse which is ongoing, and a history of gambling addiction, the status of which is unknown. Defendant presents no plan for addressing these issues if released other than AA/GA meetings. He has no (CONT.)

Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. The defendant must be afforded a reasonable opportunity to consult privately with defense counsel. On order of United States Court or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to the United States marshal for a court appearance.

Date: 12/07/2015

/s/ Sarah A. L. Merriam

Judge's Signature

SARAH A. L. MERRIAM, U.S.M.J.

Name and Title

history of stable employment other than in real estate. The government alleges that this offense began during defendant's prior term of supervised release and information received at the hearing demonstrates that defendant was engaged in real estate business while on supervision. Defendant's record of court appearances weighs in his favor. Community ties: Though defendant's son and brothers live in the area, he himself resides in rooming houses and has used their names on accounts allegedly involved in the charged offense. Ammunition and other items related to firearms were found in a common area of a home controlled by defendant for over three years, which could give rise to criminal liability as a felon in possession of a firearm, further raising the incentive for him to flee.
3142(g)(4) Given the apparently ongoing nature of defendant's conduct over the course of many years, including while on supervised release and more recently, while he was aware that he was under federal investigation, the Court finds that there is a risk to the community associated with defendant's release. While the risk is a factor considered by the Court, it is not the basis for the Court's finding that the defendant should be detained.

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).