

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 1:25-cr-10045-PBS
	)	
LINA MARIA OROVIO-HERNANDEZ,	)	
	)	
Defendant.	)	

GOVERNMENT’S OPPOSITION TO DEFENDANT’S MOTION  
FOR REVOCATION OF DETENTION ORDER

The United States of America, by and through the undersigned Special Assistant United States Attorney, opposes the defendant’s motion (Dkt. 18 and 23) pursuant to 18 U.S.C. § 3145(b) for revocation of the magistrate judge’s order of detention pending trial of defendant Lina Maria Orovio-Hernandez (Dkt. 13). As grounds therefor, the government states that the magistrate judge correctly found by a preponderance of evidence that the defendant poses a serious risk of flight and no condition or combination of conditions will reasonably assure her appearance.

INTRODUCTION

For more than twenty years, the defendant, a Colombian national without lawful status in the United States, has lived under a stolen identity for which she obtained nine state IDs, improperly received approximately \$400,000 in federal benefits, applied for a U.S. passport, registered to vote, and voted in the 2024 U.S. presidential election. After being confronted by law enforcement as to her actual identity and later spotting them at her apartment complex, the defendant delivered to a friend several bags, which contained over five hundred dollars in U.S. and Colombian currency. When law enforcement attempted to execute an arrest warrant, the defendant refused to open the door to her residence and held the lock to prevent the use of a key, requiring law enforcement to breach her front and bedroom doors. Once inside, law enforcement

found the defendant fully dressed with shoes on next to an open window and screen in cold weather, apparently attempting to flee from her first-floor unit. Law enforcement's concerns of flight were further heightened when the defendant asked immediately before her initial appearance how long the battery on a monitoring bracelet lasted. Based on these facts, the potential of a significant jail sentence (including a two-year mandatory minimum), and the defendant's lack of consistent work history or family ties in this country, the risk of flight in this case is overwhelming.

## BACKGROUND

### The Offense Conduct

On February 6, 2025, the defendant was charged by indictment with false representation of Social Security number, in violation of 42 U.S.C. § 408(a)(7)(B); false statement in application for passport, in violation of 18 U.S.C. § 1542; aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1); and theft of government money, in violation of 18 U.S.C. § 641. Dkt. 1.

### Application for a U.S. Passport and Resulting Investigation

On November 26, 2024, the defendant appeared in person at the U.S. Post Office in Jamaica Plain, MA, and applied for a U.S. Passport Book. She represented on the application that her name is E.C.,<sup>1</sup> her date of birth ("DOB") is XX/XX/1973, and her Social Security number ("SSN") is XXX-XX-6657. She further represented that she is a U.S. citizen born in Puerto Rico. The defendant submitted a Massachusetts REAL ID card issued on April 16, 2024, in the E.C. identity and a Puerto Rico birth certificate issued on November 29, 2022, in the E.C. name as proof of her identity. The defendant signed the November 26, 2024 application under penalty of perjury. A

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<sup>1</sup> The full name of the individual whose identity the defendant used is known to the government, but her initials are used herein to maintain privacy.

photograph of the defendant was attached to the application. A copy of this application, which is the subject of Count Two of the indictment, is attached as **Exhibit 1**.

During adjudication, a query in a Department of State database returned a previously refused Non-Immigrant Visa (“NIV”) application from 2003 submitted at the U.S. Embassy in Colombia. **Exhibit 2**. The photo associated with the NIV resembled the individual purporting to be E.C. in the U.S. passport application; however, the biographical information did not match.

 <p>U.S. passport application under the E.C. name (11/26/2024)</p>	 <p>Visa application from U.S. Embassy in Colombia for Orovio-Hernandez (9/24/2003)</p>
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The NIV listed the following biographical information: Lina Maria Orovio-Hernandez (DOB: XX/XX/1966; Place of Birth: Colombia). A request was sent to the Overseas Criminal Investigation Unit (“OCIU”) Bogota for any information available on Orovio-Hernandez. OCIU Bogota provided a copy of a Colombian Identity Card (Cédula de Ciudadanía) (**Exhibit 3**), containing fingerprints and a picture (below), as well as a Colombian birth certificate (**Exhibit 4**) and criminal history record under the Orovio-Hernandez identity. Orovio-Hernandez was also found to not have any lawful status in the United States.







On December 23, 2024, Diplomatic Security Service (“DSS”) Special Agent Barbara Robertson and another DSS agent conducted a voluntary recorded interview of the defendant at the DSS Boston Field Office. The defendant claimed that she was E.C. and presented: a 2024 Massachusetts REAL ID and 2023 Massachusetts driver’s license in the E.C. identity; a Social Security card issued in 2015 in the E.C. identity, and two Puerto Rico birth certificates from 2022 in the E.C. identity as proof. During the interview, the defendant admitted that she signed and submitted the November 2024 U.S. passport application. She also admitted receiving housing assistance since 2011 and obtaining a replacement SSN card in 2015—both under E.C.’s identity. *See infra*. The defendant also consented to fingerprinting by DSS during the interview. The DSS agents confronted the defendant regarding her actual Colombian identity, Orovio-Hernandez, but the defendant maintained that she was E.C. and the interview was concluded.





On January 2, 2025, DSS submitted (1) a set of fingerprints from the Colombian Identity Card provided by OCIU Bogota in the name of Orovio-Hernandez; and (2) the set of prints during the December 23, 2024 voluntary interview of the defendant, to the Worcester Police Department, Forensic Services Section for an analysis and comparison. On January 3, 2025, the Latent Print Unit produced a report stating both sets of record prints came from the same source. **Exhibit 5.**

#### **Massachusetts Identification Cards**

The defendant has used E.C.’s name, as well as her SSN (XXX-XX-6657) and DOB

(XX/XX/1973), with the Massachusetts Registry of Motor Vehicles (“RMV”) on several occasions to obtain the following: 4/16/2024 – REAL ID; 3/10/2023 – MA driver’s license; 1/16/2023 – MA learner’s permit; 9/16/2016 – MA driver’s license; 8/21/2013 – MA driver’s license; 9/16/2011 – MA driver’s license; 6/6/2007 – MA driver’s license; 8/24/2005 – MA learner’s permit; and 3/31/2004 – MA state ID card. All of these IDs bear the same number. The application for the April 16, 2024 Real ID (**Exhibit 6**) is the subject of Count One of the indictment. Photographs of the defendant were taken at the RMV and stored in the RMV database in connection with these IDs. Copies of these images and those associated with other documents are provided below.

 <p>Colombian Cedula for Orovio-Hernandez (11/7/1984)</p>	 <p>Visa application from U.S. Embassy in Colombia for Orovio-Hernandez (9/24/2003)</p>
 <p>MA state ID card under E.C. name (3/31/2004)</p>	 <p>MA driver’s license under E.C. name (6/6/2007)</p>

 <p>MA Driver's License under E.C. name (9/16/2016)</p>	 <p>MA learner's permit under E.C. name (1/16/2023)</p>
 <p>MA REAL ID under E.C. name (4/16/2024)</p>	 <p>Passport application under E.C. name (11/26/2024)</p>

The defendant provided to the RMV a Puerto Rico birth certificate with a registration date of October 17, 2022 and issuance date of November 29, 2022, a Social Security card bearing E.C.'s name and SSN issued February 15, 2015, and an electric bill in E.C.'s name dated November 8, 2022.

### **Social Security Card and Benefits**

Social Security Administration ("SSA") records confirm that SSN XXX-XX-6657 is a valid number that was assigned to E.C. SSA records further reveal that two SSN cards were issued under the E.C. identity: the first on February 6, 1979, out of the Roslindale, MA SSA Field Office, and the second on February 19, 2015, out of the Boston, MA SSA Field Office. SSA records also showed the defendant used E.C.'s identity to apply for and receive Supplemental Security Income

(“SSI”) as a disabled individual in 2007 and 2014.<sup>2</sup> Only U.S. citizens and certain lawfully present non-citizens are eligible to receive SSI benefits. *See* 42 U.S.C. § 1382c(a)(1)(B). On the November 16, 2007, and June 18, 2014 SSI applications, the defendant stated under penalty of perjury that she was a U.S. Citizen with the name of E.C., SSN XXX-XX-6657, and DOB XX/XX/1973. The most recent SSI benefit amount paid to the defendant using E.C.’s identity was \$967.00 a month, which was electronically deposited into a Citizens Bank checking account ending in -3359. For the periods of 2007 to 2010 and 2014 through January 2025, the defendant received approximately \$108,231.68 in SSI benefits for which she was ineligible.

### **Section 8 Housing Assistance**

On August 4, 2011, the defendant applied to the Pondview Apartments in Jamaica Plain for public housing assistance. **Exhibit 7.** The defendant represented on her application that she was E.C. with a DOB XX/XX/1973 and SSN XXX-XX-6657. In addition, the defendant indicated on a form that she was a U.S. Citizen or national of the United States and that she would be the only member of the household. **Exhibit 8.** That form also provided notice that non-U.S. citizens without legal status in the country were ineligible for federal rental assistance. The defendant provided supporting identity documents including a “Certificate of Birth Registration” from the Commonwealth of Puerto Rico from 1974, a Social Security card, and Massachusetts driver’s license—all in the name of E.C.

On October 1, 2011, Pondview Apartments admitted the defendant under E.C.’s identity to the complex and the multifamily housing program. That same month, the U.S. Department of Housing and Urban Development (“HUD”) began making subsidized housing assistance payments

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<sup>2</sup> SSA terminated the defendant’s SSI benefits in 2010 because of excess resources.



on behalf of the defendant under E.C.’s identity. On an annual basis, from August 2012 through the present, the defendant completed several annual housing recertification packets using E.C.’s name, DOB, and SSN.

On April 1, 2017, as part of unit relocation and rental recertification, the defendant provided an updated form using E.C.’s name and DOB stating that she was a U.S. Citizen or national of the United States, while again being reminded that non-U.S. citizens without legal status in the country were ineligible for federal rental assistance.<sup>3</sup> **Exhibit 9.**

The Pondview Apartments tenant file for the defendant includes copies of identification documents; namely, a Certificate of Birth Registration from Puerto Rico; a Social Security card; and Massachusetts driver’s licenses issued on 9/16/2016 and 9/16/2011—all bearing E.C.’s name. The driver’s licenses bear the photographs of the defendant depicted above.

From August 2011 through January 2025, HUD provided approximately \$259,589 to the Pondview Apartments on behalf of the defendant using E.C.’s identity in rental subsidies, which she was ineligible for as a non-U.S. citizen without lawful status. These funds are the subject of Count Four of the indictment.

### **SNAP Benefits**

From April 2005 through January 2025, the defendant received Supplemental Nutrition Assistance Program (“SNAP”) benefits (i.e., food stamps). The U.S. Department of Agriculture provides funding for SNAP and shares the cost of administering SNAP with its state partners. In Massachusetts, SNAP benefits are administered by Massachusetts Department of Transitional

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<sup>3</sup> The prefilled section of this form indicated that the applicant’s SSN was “XXX-XX-7301.” The altered SSN appears to have been a clerical error by housing staff as it was pre-populated on the form and the defendant’s responses were handwritten. This is also the only time this SSN appears in documents related to this case.



Assistance (“DTA”) in accordance with federal requirements. Based on USDA and DTA records, database searches reveal that approximately \$43,348 in benefits was used by the SNAP account (with Case Number ending in -5767) assigned to E.C.’s name. These records indicate that the biographical information for the SNAP benefits include E.C.’s DOB and SSN, and the defendant’s address. Additionally, the defendant’s 2007 temporary Massachusetts driver’s license bearing the image shown above was presented to DTA. Notably, only U.S. citizens and certain lawfully present non-citizens are eligible to receive SNAP benefits. *See* 7 U.S.C. § 2015(f) and 42 U.S.C. § 1320b-7(b)(4), (d). The defendant stated under penalties of perjury on several DTA SNAP certification forms from 2005 through 2013 that she was a U.S. citizen.

### **Voter Registration and Ballot Submission**

According to the City of Boston Election Department, voter registration records indicate that the defendant using E.C.’s identity and residing at [REDACTED] Boston, MA 02130, has been a registered voter in the City of Boston since January 11, 2023. Consistent with this evidence, the defendant submitted a RMV Driver’s License, Learner’s Permit or ID Card Application dated January 11, 2023, using E.C.’s identity with her residential address of [REDACTED] Jamaica Plain, MA 02130. In Section F of that application, labeled “Voter Registration,” the defendant checked a box affirming that she was a U.S. citizen. Directly above this check box, the form stated, **“We will use your information to update your voter registration or register you to vote.”** (emphasis in original). This section also stated that, “[t]o register to vote, you must be: . . . [a] U.S. citizen . . . .” The defendant also chose not to check the box stating, “Do not use my information for voter registration.” On January 16, 2023, the RMV issued a learner’s permit to the defendant based on the January 11, 2023 application. On that same date, a picture of that individual was taken at the RMV, as depicted above.

Additionally, according to the City of Boston Election Department, a ballot was cast under the E.C. voter registration on November 5, 2024, which was an election that included candidates for President of the United States among others. Surveillance footage from a Citizens Bank ATM at [REDACTED] Jamaica Plain, MA, also shows OROVIO-HERNADEZ with an “I Voted” sticker on November 5, 2024, as depicted below.



During transport after her arrest on February 10, 2025, the defendant further admitted to law enforcement that she had voted in the November 2024 U.S. presidential election, as captured on body camera footage.

#### **Knowledge that the Means of Identification Belonged to Another Person**

The evidence above demonstrates that the defendant knew that E.C. was an actual person. Both the 1974 and 2022 Puerto Rico Birth Certificates provided specific details of E.C.’s life, including E.C.’s place of birth in Mayaguez, Puerto Rico, her parents’ names, and her parents’ places of birth. Additionally, during court proceedings in Puerto Rico in 2022 in support of her

petition for a late registration of birth to obtain the 2022 birth certificate, the defendant was present for a virtual hearing on September 28, 2022, where the principal of an elementary school in Mayaguez (i.e., E.C.'s birthplace) testified and submitted a certification for the record that E.C. completed elementary school in Mayaguez. Additionally, the defendant repeatedly subjected E.C.'s identity to government scrutiny. She successfully used E.C.'s SSN in nine applications for various forms of state identification cards with the Massachusetts RMV, knowing that the SSN would be verified with SSA. She also used the SSN to obtain a replacement SSN card in 2015, as well as federal housing subsidies, SSI, and SNAP benefits, and on an RMV form facilitating voter registration. In conjunction with the passport application, this conduct is the subject of Count Three of the indictment.

### **The Detention Proceedings**

At the defendant's initial appearance on February 12, 2025, the government moved for detention under 18 U.S.C. § 3142(f)(2)(A), alleging that the defendant posed a risk of flight. Chief Magistrate Judge Cabell convened a hearing on the motion on February 13, 2025, at which the government proceeded by proffer by agreement.

In addition to the evidence described above, the government proffered details concerning the execution of the arrest warrant and comments made by the defendant to law enforcement while in custody. Specifically, the government described efforts by law enforcement to schedule a ruse appointment with the defendant after she had called DSS SA Robertson on February 4, 2025, to inquire about the status of her "case." When discussing possible dates and times, the defendant falsely stated that she was unavailable on the proposed dates offered by Agent Robertson due to an apartment inspection and medical appointment. However, Agent Robertson verified with

property management and the medical practice group mentioned that the defendant did not have conflicts on those dates.

The government also described arrest body camera footage, which was provided to defense counsel before the hearing. The footage shows that law enforcement initially attempted another ruse to get the defendant to open the door, but she did not do so. Then, after law enforcement announced themselves and that they had a warrant, the defendant continued to refuse entry to her residence. During a verbal interaction through the door, the defendant used the first name of DSS Special Agent Barbara Robertson that had interviewed her in-person on December 23, 2024, indicating she knew that the persons at the door were law enforcement. Additionally, the government described how law enforcement had to breach both a front and bedroom door to gain access to the residence and apprehend the defendant. Moreover, the government described that the defendant was found in her bedroom with shoes on at 8:00 AM, near the window to her first-floor apartment, which was open with the screen raised despite the temperature being 30 degrees and the curtains visibly blowing from a breeze. The government argued that the only reasonable inference from these facts is that the defendant was attempting to flee.

Further, the government offered as an exhibit a 2015 Toys“R”Us receipt found in the defendant’s residence upon execution of a search warrant on the day of the arrest. **Exhibit 10.** On the billing information section of the receipt, the defendant’s actual name (“Lina Hernandez”) appears along with a phone number that the defendant used in 2014 on forms submitted to SSA when applying for SSI using the E.C. identity. **Exhibit 11.**<sup>4</sup>

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<sup>4</sup> The only exhibit from the government’s earlier proffer not included here is a photograph of the 2024 REAL ID that the defendant presented during the November 2024 DSS interview.

### The Detention Order

The magistrate judge issued an Order of Detention Pending Trial on February 20, 2025. Dkt. 13. In the Detention Order, the magistrate judge found by a preponderance of evidence that no condition or combination of conditions of release would reasonably assure the defendant's appearance as required. *Id.* at 2. The magistrate judge went on to address the 18 U.S.C. § 3142(g) factors. He found that the weight of the evidence against the defendant is "decidedly strong," and specifically noted the documentary evidence of the defendant's applications for a REAL ID, U.S. passport, and Section 8 housing benefits using E.C.'s identity compared to her application for the NIV at the U.S. Embassy in Columbia under her actual identity, as well as other documents presented by the government during its proffer. *Id.* at 3. Further, the magistrate judge found that the defendant has a strong incentive to flee in light of a guidelines sentence range of several years, including a two-year mandatory minimum for the aggravated identity theft charge that would run consecutive to any sentence imposed on the other charges. *Id.* He further cited the defendant's failure to cooperate with law enforcement when they executed the arrest warrant requiring the breach of two doors, as well as being fully dressed with her first-floor window open to the cold in apparent preparation to flee outside. *Id.* Although the magistrate judge acknowledged that the defendant has lived in the same apartment complex for 14 years, he found that she had no other meaningful ties to the community as she has no family or consistent work history. *Id.* at 3-4. He also noted that the defendant is not lawfully present in the United States as she is a Colombian national. *Id.* at 4. The magistrate judge also expressed concern that the court could not fashion conditions of release to provide adequate supervision and stable housing where the defendant had a pending eviction order under appeal and was likely to lose her Social Security benefits, which are her primary source of income. *Id.* Finally, the magistrate judge cited the defendant's remarks

to law enforcement immediately before the initial appearance inquiring about how long a battery lasts on an electronic bracelet. *Id.*

### **Evidence Obtained After Detention Hearing**

Since the issuance of the February 20, 2025 Detention Order, the government has continued to identify additional evidence that supports detention under the 3142(g) factors. First, within defendant's apartment, agents found JetBlue documents for air travel departing Bogota, Colombia on August 14, 2019, stopping in San Juan, Puerto Rico, and arriving in Boston on August 16, 2019, for Saida Lucero Lujan Hernandez ("Saida"), with return travel to Medellin, Colombia on August 23, 2019. In a June 2024 NIV application, Saida identified E.C. as a contact name with a phone number of [REDACTED] which is consistent with the phone number listed on a January 11, 2023 Massachusetts ID card application the defendant submitted previously to the RMV. On her Form I-94 that she completed upon arrival in Boston on October 15, 2024, Saida indicated that her destination was the defendant's address. Upon further investigation, law enforcement obtained Saida's birth certificate from the Colombian government. This document indicates that Saida's mother is "Maria Del Carmen Hernandez Herrera" with an identification number of 32.421.355 and that she was 28 years old when she gave birth to Saida in Medellin, Colombia in 1976. **Exhibit 12.** Similarly, the defendant's Colombian birth certificate indicates that her mother is "Carmen Hernandez Herrera" with an identification number of 32.421.355 and that she was 19 years old when she gave birth to the defendant in Medellin, Colombia in 1966. **Exhibit 4.** Based on this information, it appears that Saida Lucera Lujan Hernandez is the Colombian half-sister of the defendant.

Upon further investigation, law enforcement discovered that Saida visited the U.S. Embassy in Bogota, Colombia in June 2024 to apply for a NIV with Sandra Estela Orovio

Hernandez (“Sandra”), as their visa applications were assigned consecutive numbers. Notes from Sandra’s June 2024 NIV application file further indicate, “Two sisters to visit friend in NJ.” The NIV application further indicates that Sandra was born in Medellin, Colombia—the same birthplace as Saida and the defendant. On a previous Form I-94 that Sandra completed upon arrival in Boston on December 14, 2023, she also indicated that her destination was the defendant’s address. Based on this information, it appears that Sandra Estela Orovio Hernandez is the Colombian sister of the defendant.

In a jail call recording on February 15, 2025, the defendant further acknowledged that she recognized Agent Robertson through the peephole in her door when agents attempted to execute the arrest warrant. On this same call, the defendant stated that she held the lock on the front door to thwart law enforcement’s attempt to open the door with a key from the property management before they breached. She also stated that she saw Agent Robertson and two other agents at the apartment complex on January 28, 2025, when they conducted surveillance and met with property management.

Additionally, on March 6, 2025, law enforcement interviewed a friend of the defendant, Jessica Martinez-Merna. Martinez-Merna admitted during the interview that she provided false statements in a sworn affidavit in support of the defendant’s petition for a late registration of birth in Puerto Rico in 2022. Specifically, Martinez-Merna stated that the defendant told her not to let anyone know they had met in 2008, so she falsely claimed that they reconnected through a mutual friend on Facebook in 2019. Further, Martinez-Merna informed law enforcement that the defendant had provided several bags to her for safekeeping the week before she was arrested. Notably, the defendant initially called Martinez-Merna with this request on January 28, 2025, when she saw law enforcement at the apartment complex. After obtaining a search warrant, law



enforcement discovered \$372.05 in U.S. currency, and 750,000 Colombian pesos (equivalent to approximately \$179.21 in U.S. dollars) in these bags.

Finally, on February 25, 2025, the defendant's appeal of an eviction order was dismissed by the housing court and an execution for possession of her apartment issued. **Exhibit 13.** According to counsel for the apartment complex, the execution was levied on March 6, 2025, and the apartment complex took possession of the defendant's former residence.

## ARGUMENT

### Legal Framework

Jurisdiction over the review of the detention order issued by the magistrate judge lies with this Court pursuant to 18 U.S.C. §3145(b), which provides, “[i]f a person is ordered detained by a magistrate judge . . . the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order.” To justify detention, the government must demonstrate by a preponderance of the evidence that a defendant poses a risk of flight such that no conditions of release will reasonably assure the appearance of the defendant as required. *See* 18 U.S.C. § 3142; *United States v. Patriarca*, 948 F.2d 789, 793 (1st Cir. 1991). In assessing whether suitable release conditions exist, a court must consider the nature and circumstances of the offense charged; the weight of the evidence against the person; the history and characteristics of the accused, including family ties, employment and other factors; and the nature and seriousness of the danger posed by the person's release. 18 U.S.C. § 3142(g). When reviewing a contested detention order issued by a magistrate judge, the district judge must conduct a *de novo* review. *See United States v. Tortora*, 922 F.2d 880, 883 n.4 (1st Cir. 1990).

**A. The Statutory Factors Overwhelmingly Support a Finding of Serious Risk of Flight That Merits Detention.**

**1. The Nature and Circumstances of the Offense**

As the magistrate judge noted, by virtue of the Indictment, there is probable cause that the defendant made several false statements and representations to the government about her identity for years. Dkt. 13 at 3. The nature of the charges, as well as the defendant's other misrepresentations described above, demonstrate that the defendant cannot be trusted to accurately report information to probation. While the defendant concedes that these charges "may suggest a tendency toward deception," Dkt. 24 at 4, she argues that she lacks the resources to flee because she received low-income assistance benefits. However, as discussed above, the defendant hid approximately \$551.26 in U.S. and Colombian currency with a friend the week before her arrest after spotting law enforcement surveilling her apartment.

**2. The Weight of the Evidence**

The evidence in this case is overwhelming. The defendant has admitted in recorded statements to law enforcement that she has applied for and received public benefits for several years, that she has applied for and received state IDs, that she applied for a U.S. passport, and that she voted in the 2024 U.S. presidential election—all under the E.C. identity. The documentary evidence further shows that she knowingly and willfully committed these acts based on the forms advising her of citizenship requirements and her assumption of a stolen identity. Her only apparent defense is that she actually is E.C. However, photographs, fingerprint matches, and documents referencing her actual name located in her residence all reveal the truth. Further, her biological sister and half-sister from Colombia have been visiting her, and she hid Colombian currency with a friend a week before her arrest. This factor weighs in favor of detention.

The defendant cites case law from outside the First Circuit suggesting that the weight of

the evidence is the least significant 3142(g) factor, but that argument has been rejected in this district because “[t]he Bail Reform Act does not specify the weight each factor should be given.” *United States v. Teixeira*, No. 1:23-CR-10159-IT, 2023 WL 5672758, at \*4 n.2 (D. Mass. Sept. 1, 2023) (citing *United States v. Zhang*, 55 F.4th 141, 149 (2d Cir. 2022)); *cf. United States v. Jessup*, 757 F.2d 378, 384 (1st Cir. 1985) (“It is not unusual for Congress to instruct a magistrate or judge conscientiously to weigh several different factors without specifying precise weights for each.”).

### 3. The History and Characteristics of the Defendant

Although the defendant has lived in the same apartment complex for the past 14 years, her appeal of an eviction order was dismissed on February 25, 2025, and the property management took possession of the apartment on March 6, 2025. Thus, if released, she will be homeless. While defense counsel suggested at the detention hearing that the defendant might live at a shelter, no specifics have been offered and other courts have recognized that such circumstances weigh in favor of detention in similar cases. *See United States v. Olteanu*, No. 5:18-CR-00081-REW-MAS-9, 2024 WL 4819432, at \*4 (E.D. Ky. Nov. 18, 2024) (recognizing because of defendant’s “history of engaging in criminal deception and using false identities coupled with no residence, no job, and no friendly ties to this district, and no realistic plan to obtain any of the three, the second and third factors in § 3142(g) point towards nonappearance-based detention”).

The defendant also suggests that she lacks the resources to buy even a bus ticket, but, as noted above, the defendant took active measures to conceal over \$500 in U.S. and Colombian currency a week before arrest after spotting law enforcement at her apartment complex.

Further, contrary to the defendant’s assertion of a lengthy employment history, as noted above, the defendant’s primary source of income since 2014 has been SSI disability benefits,

which will be suspended. Moreover, without lawful status in the United States, she does not have the ability to legally work if released.

The defendant also cites Boston-area medical providers, who have treated her for breast cancer, as a reason not to flee. She neglects to mention, however, as noted in the pretrial services report, that she completed treatment in 2016 and has only received annual checkups since then.

Finally, the defendant challenges the magistrate judge's reference to her lack of lawful status in the country as a factor supporting detention. Unlike the defendant in the *Castillo* case that she cites, the defendant has no family ties in Massachusetts, whereas Magistrate Judge Boal explicitly cited the presence of Castillo's father, sister, and niece in Massachusetts, and the fact that he would live with the niece if released. *See United States v. Castillo*, 1:19-cr-10279-IT, Dkt. 53 at 3-4 (D. Mass. Nov. 11, 2019). Although the defendant argues that the risk of deportation pretrial should not weigh against her, this was not a factor cited by the magistrate judge. Even if it was, Magistrate Judge Hennessy has noted that an immigration detainer increases the *volitional* risk of flight for a defendant. *See United States v. Lopez*, 2023 WL 8039318, at \*4 n.3 (D. Mass. Nov. 20, 2023) ("The court may, of course, consider a defendant's immigration status in determining whether the defendant might flee. For defendants who face a virtual certainty of deportation following a substantial prison sentence, there is an obvious motivation to flee to their countries of origin rather than wait to serve a sentence in the United States and then be deported. Such facts speak to the likelihood that a defendant will flee intentionally and to the conditions of release that might mitigate such a risk.").

**B. There Are No Conditions or Combination of Conditions that Will Reasonably Assure the Appearance of the Defendant as Required.**

The defendant does not address the circumstances of her arrest in her brief. As discussed above, law enforcement had to breach two doors to reach the defendant and found her fully dressed

in shoes with an open window and screen to her first-floor unit apparently attempting to flee. Further, even assuming that home confinement at a homeless shelter is possible, the defendant's suggestion that electronic monitoring would be a sufficient condition is belied by her inquiry to law enforcement about how long the battery on a monitoring bracelet lasts.

### CONCLUSION

The facts set forth above and at the detention hearing establish by a preponderance of evidence that the defendant is a serious risk of flight. Because there are no conditions or combination of conditions that could reasonably assure the appearance of the defendant as required, the government requests that this court deny the defendant's motion and affirm the magistrate judge's order of detention pending trial.

Respectfully submitted,

LEAH B. FOLEY  
United States Attorney

By: /s/ James J. Nagelberg  
James J. Nagelberg  
Special Assistant U.S. Attorney

Date: April 2, 2025

### CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

Dated: April 2, 2025

/s/ James J. Nagelberg  
Special Assistant U.S. Attorney