

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARIO AMBROSE ANTOINE,

Defendant.

Case No. 16-MJ-00182-JTM

**MOTION OF THE UNITED STATES FOR PRETRIAL DETENTION
AND A HEARING PURSUANT TO 18 U.S.C. § 3142(f)**

COMES NOW the United States of America, by Tammy Dickinson, United States Attorney, and Patrick Daly and David Barnes, Assistant United States Attorneys, all for the Western District of Missouri, and hereby moves the Court to hold a hearing pursuant to 18 U.S.C. § 3142(f), for the purpose of demonstrating that no condition or combination of conditions of release will reasonably assure the safety of other persons and the community if **MARIO AMBROSE ANTOINE** (hereinafter “**ANTOINE**”) is granted bond, nor will any conditions secure **ANTOINE**’s appearance, and therefore **ANTOINE** should be detained.

INTRODUCTION

Over the last few years, **ANTOINE** has devised and executed a fraudulent scheme which enabled him to serially rape dozens of women throughout the Kansas City area, making numerous false and fraudulent promises and representations that these women would be paid by purportedly legitimate adult modeling and pornography enterprises. Following these “auditions,” **ANTOINE** would stalk and harass these victims, sending the images and videos to their employers and significant others using an array of Facebook aliases.

On October 6, 2016, the Government filed a criminal complaint in this district charging **ANTOINE** with the attempted online enticement for criminal sexual activity, in violation of 18 U.S.C. § 2422(b), and obstruction of the due administration of justice, in violation of 18 U.S.C. § 1503. This complaint was followed by a twenty-one count Indictment charging him with violations of wire fraud (18 U.S.C. § 1343), online enticement (18 U.S.C. § 2422), cyberstalking (18 U.S.C. § 2261A), false statements to law enforcement (18 U.S.C. § 1001), obstruction of the due administration of justice (18 U.S.C. § 1503), extortion (18 U.S.C. § 875), and the false registration of a domain name (18 U.S.C. § 3559(g)).

The details of this investigation leading up to **ANTOINE**'s arrest are more fully elaborated in the Government's Affidavit in support of Criminal Complaint No. 16-MJ-00182-JTM. (D.E. #1).

In essence, the Government will present evidence during the detention hearing that **ANTOINE** has and is actively obstructing justice, has committed crimes of violence, is a danger to the community, and is a likely potential of flight due to the punishment awaiting him makes him an unsuitable candidate for release.

SUPPORTING SUGGESTIONS

Subsection 3142(f), Title 18, United States Code, provides that a hearing must be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure **ANTOINE**'s appearance and the safety of any other person in the community if the attorney for the Government moves for such a hearing and if the case is in any one of the following categories (emphasis added):

- A. The case involves a crime of violence, a term defined under Title 18, United States Code, Section 3156(a)(4) to include:

(C) “**any felony under chapter 109A, 110, and 117...**” (18 U.S.C. § 3142(f)(1)(A))

* * * * *

- E. A serious **risk that the defendant will flee** (18 U.S.C. § 3142(f)(2)(A)); or
- F. A serious risk that such a person will **obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror** (18 U.S.C. § 3142(f)(2)(B)).

One or more grounds for pretrial detention and a pretrial detention hearing as set forth (emphasized in **bold** above) by the statute exists in this cause, to wit:

A. The Defendant is Charged with a Crime of Violence

As stated above, **ANTOINE** was charged with the attempted online enticement to engage in criminal sexual activity (an offense found under Chapter 117 of Title 18), which constitutes a “crime of violence” as defined under 18 U.S.C. §§ 3156(a)(4)(C) (“any felony under chapter...117”). Further, **ANTOINE**’s commission of the “sexual activity for which any person can be charged with a criminal offense” involved individual crimes which would also constitute crimes of violence. **ANTOINE**’s enticement involved extensive deception towards these victims, negating their consent under the laws of Missouri and subjecting him to criminal liability for the crimes of rape and sodomy. *See* MO. REV. STAT. § 566.031, 566.061, and 556.061(5)(c).

ANTOINE was aware of this; he used one of his cell phones to visit rapebyfraud.com, a website hosted by a sexual assault survivor which seeks to educate women how to avoid sex assault scams such as this one perpetrated by **ANTOINE**. *See* Affidavit in Support of Criminal Complaint (“Aff.”) ¶ 9). **ANTOINE** also used this same phone to conduct Google searches for “rape by deception,” “rape by deception kansas,” and “illegal to trick girls into sleeping with you.” **ANTOINE** also downloaded and reviewed scholarly legal journals exploring the lack of consent when rape by fraud, deception, and coercion occurs. *Id.* On November 12, 2015, **ANTOINE**

downloaded a PDF file of a law journal article by Patricia J. Falk entitled “Rape by Fraud and Rape by Coercion.”¹ *Id.* On that same date, **ANTOINE** used his cell phone to access a law student’s blog authored by Daniel J. Slomnicki hosted at the New York State Bar Association entitled “Rape By Fraud, Deception Or Impersonation – An Addition To New York’s Penal Law: Rape In The First Degree Statute.”² *Id.* This article suggests a modification to the New York Penal Law to follow the Model Penal Code in declaring consent to be ineffective if obtained by deception, specifically mentioning that the “New York legislature could follow the Missouri legislature in defining consent to be invalid ‘if it is induced by force, duress, or deception,’” then citing to the relevant Missouri statute.³ *Id.*

B. Severity of Punishment Makes Defendant A Potential Flight Risk

ANTOINE is a potential flight risk because of his awareness of the strength of the Government’s case and the extensive punishment awaiting him upon conviction. The charged criminal violations in the present complaint carry a maximum statutory punishment of 20 years imprisonment. Further, **ANTOINE** has never faced such criminal exposure given his past state felony convictions. Indeed, should **ANTOINE** be convicted he will have to serve at least 85% of any imposed sentence with no possibility of parole.

¹ Patricia J. Falk, *Rape by Fraud and Rape by Coercion*, 64 Brooklyn Law Review 39 (1998).

² Slomnicki, Daniel J. “Rape By Fraud, Deception Or Impersonation – An Addition To New York’s Penal Law: Rape In The First Degree Statute.” New York State Bar Association blog. http://nysbar.com/blogs/lawstudentconnection/2013/11/rape_by_fraud_deception_or_imp.html

³ *Id.*; cf. MO. REV. STAT. § 556.061(5)(c) (2013).

C. **There is a Serious Risk that Defendant Will Obstruct or Attempt to Obstruct Justice, or Threaten, Injure, or Intimidate a Prospective Witness or Juror**

ANTOINE committed virtually all of these offenses while he was under court supervision for his previous convictions. (Aff. ¶ 7). While in custody at the Jackson County Jail, **ANTOINE** made material false statements to a special agent with the Federal Bureau of Investigation. (Aff. ¶ 20); see also Indictment ¶¶ 84-87 (Counts 17 and 18). After **ANTOINE** was released early from custody, he further attempted to obstruct justice by lying to the federal and state officers as to purported discussions he had with his “attorney” on the strength of the evidence and that the FBI was not pursuing this investigation any further. (Aff. ¶¶ 21-25); see also Indictment ¶¶ 88-89 (Count 19). Despite admonitions against doing so, **ANTOINE** has continued to contact at least one of the victims in this matter. (Aff. ¶¶ 23, 24). Further, **ANTOINE** has recently lied to federal and state agents as to his retention of a local Kansas City criminal defense attorney, and in fact may have used the assumption of this identity to perpetrate this fraudulent scheme. (Aff. ¶¶ 26, 27).

ANTOINE has been charged via complaint (and now indicted) on multiple counts of making false statements to federal officers and obstruction of the due administration of justice. He continues to contact the affected victims of his charged crimes. And he has represented to multiple federal and state agents that he is currently represented by a specific Kansas City criminal defense attorney, while that is not the case. His scheme involved his assumption of numerous fictitious aliases to obscure his true and fraudulent intention, and his ability to engage in this chicanerous conduct would make it nearly impossible to monitor his activity while out in public and free from detention. Put simply, there is no meaningful way to supervise him upon release or ensure that the affected victims are not contacted or protected from his ongoing harassment.

D. The Defendant is a Danger to Himself and the Community

The Government will present evidence at the hearing that **ANTOINE**'s release on bond presents a clear danger to the community. **ANTOINE** perpetrated an expansive scheme to induce dozens of women to engage in sexual activity with him with the promises of tens of thousands of dollars in payment. Given the extensive deception involved in inducing these women to commit these acts, these encounters would constitute rape or sodomy under various Missouri statutes. *See* MO. REV. STAT. § 566.031, 566.061, and 556.061(5)(c). There is no evidence **ANTOINE** ever paid this money, and, conversely, numerous instances in which he instead sent these images and videos to significant others and employers in a vindictive effort to silence his victims, tear up relationships, and cause them to lose their jobs. Much of this evidence could have been stored remotely – in “cloud” servers or within email accounts still accessible via the Internet – and, if released, **ANTOINE** would have the means to continue to intimidate these victims or release the damaging pornography to the wider Internet. In addition, some of these communications by **ANTOINE** signal ongoing struggles with depression, and his attempts and thoughts of committing suicide, so his release presents a danger to himself.

CONCLUSION

The Government has charged **ANTOINE** with multiple offenses that constitute crimes of violence. His potential criminal exposure make him a flight risk, as well as the potential of additional, equally serious charges.

WHEREFORE, the Government respectfully requests that this Honorable Court set a detention hearing to demonstrate that no condition or combination of conditions will reasonably assure the safety of the community, and the Government further requests that the Court thereafter detain **ANTOINE** without bail.

Respectfully submitted,

Tammy Dickinson
United States Attorney

By */s/ Patrick D. Daly*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on the 24th of October 2016, to the CM-ECF system of the United States District Court for the Western District of Missouri, and a copy of the foregoing will be hand-delivered to the defendant at his first appearance before a judicial officer

/s/ Patrick D. Daly

Patrick D. Daly
Assistant United States Attorney