

No. 13-2375

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jan 23, 2014
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff-Appellee,)
)
v.)
)
FARID FATA,)
)
Defendant-Appellant.)

O R D E R

Before: KEITH, NORRIS, and KETHLEDGE, Circuit Judges.

Defendant Farid Fata appeals the district court’s order detaining him pending trial on charges of health care fraud, conspiracy to pay and receive kickbacks, and unlawful procurement of naturalization. We unanimously agree that the facts and legal arguments are adequately presented in the briefs and record, and that the decisional process would not be significantly aided by oral argument. *See* Fed. R. App. P. 34(a)(2)(C).

A finding of fact in support of pretrial detention will not be disturbed on appeal unless clearly erroneous. *United States v. Ganier*, 468 F.3d 920, 925 (6th Cir. 2006). “[W]e consider mixed questions of law and fact—including the ultimate question whether detention is warranted—de novo.” *United States v. Stone*, 608 F.3d 939, 945 (6th Cir. 2010).

Initially, a magistrate judge ordered that Fata be released on a \$170,000 secured bond with conditions. The bond was later increased to \$9 million. Fata sought to modify the conditions of release by lowering the \$9 million bond. *See* 18 U.S.C. § 3142(c)(3) (“The judicial officer may at any time amend the order to impose additional or different conditions of release.”). The government

No. 13-2375

- 2 -

responded by moving to reopen the detention hearing on the ground that—in light of new evidence—no set of conditions would secure Fata’s appearance at trial. Instead of modifying the conditions of his release, the district court ordered that Fata be detained.

Pursuant to 18 U.S.C. § 3142(f), a detention hearing

may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.

The grant or denial of a motion to reopen is reviewed for abuse of discretion. *United States v. Watson*, 475 F. App’x 598, 600 (6th Cir. 2012). In the present case, the new information provided by the government was of a nature that would increase the likelihood that Fata would be inclined to flee and had the means to do so. Thus, the district court did not abuse its discretion in reopening Fata’s detention hearing. And there was no error in the district court’s weighing of the evidence and the conclusion that no bond could be set that would reasonably assure Fata’s appearance.

Accordingly, the order detaining the defendant pending trial is **AFFIRMED**.

ENTERED BY ORDER OF THE COURT



Clerk