

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 3:16mj143

ROBERT B. JACKSON

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ORDER OF DETENTION AFTER HEARING

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing was held in this matter on August 2, 2016.

Part I - Findings of Fact

A. Rebuttable Presumption Cases

- (1) This is a rebuttable presumption case because there is probable cause to believe that the defendant has committed an offense described under 18 USC § 3142(e)(3):

- (2) Defendant has/has not rebutted the presumption that no condition or combination of conditions will reasonably assure the safety of another person or the community and/or no condition or combination of conditions will reasonably assure the appearance of the defendant as required. (If defendant has rebutted the presumption, the same still remains in the case as an item of evidence. *U. S. v. Hurtado*, 779 F. 2d 1467, 1479 (11th Cir. 1985).)

B. Non-Rebuttable Presumption Cases

- (1) This is not a rebuttable presumption case; however, the case is eligible for a detention hearing under 18 U.S.C. § 3142(f)(1) or (f)(2); and
- (2) There is a serious risk that
 - (a) The defendant will not appear, and/or
 - (b) The defendant will endanger the safety of another person or the community.

C. Violation of Pre-trial Release

Under 18 U.S.C. § 3148, the defendant is subject to detention because there is:

- (a) probable cause to believe that the defendant has committed a Federal, State, or local crime while on release (if the crime is a felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community); or
- (b) clear and convincing evidence that the person has violated any other condition of release;

AND:

- (a) based on the factors set forth in 18 U.S.C. § 3142(g), there is no condition or combination of conditions of release that will assure that the defendant will not flee or pose a danger to the safety of any other person or the community; or
- (b) the defendant is unlikely to abide by any condition or combination of conditions of release.

D. Violation of Supervised Release or Probation

- This case is eligible for a detention hearing under Federal Rule of Criminal Procedure 32.1(a)(6) and the defendant has failed to demonstrate by clear and convincing evidence that he is not likely to flee or pose a danger to the safety of any other person or the community if released. Fed. R. Crim. Pro. 32.1(a)(6) (incorporating 18 U.S.C. § 3143).

E. Release Pending Sentencing or Appeal

- This case is eligible for a detention hearing under 18 U.S.C. § 3143 and the defendant has failed to demonstrate by clear and convincing evidence that he is not likely to flee or pose a danger to the safety of any other person or the community if released.

Part II - Written Statement of Reasons for Detention

I find that the information submitted at the hearing establishes:

- by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required; and/or
- by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of other persons or the community
- defendant is subject to supervised or pre-trial release or probation or is pending sentencing or appeal and has not demonstrated by clear and convincing evidence that he is not likely to flee or pose a danger to the safety of any other person or the community if released

My reasons, after considering the factors enumerated in 18 U.S.C. § 3142(g), are:

1. The nature and circumstances of the offense charged, including whether the offense is a crime of violence, a violation of section 1591, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device:

The offense is serious. During the course of the June 2015 FBI interview, the defendant told serial falsehoods having been advised of the consequences. Although he is charged with a violation of 18 U.S.C. § 1001, I cannot overlook the substance and quantity of the online statements made by the defendant. A number of these statements condone, at best, and encourage, at worst, violence toward those he perceives as opponents of ISIS. I also cannot overlook defendant's expressions that he would like to be of assistance, or even be part of, known terror organizations.

2. The weight of the evidence:

The weight of the evidence is strong, and defendant does not contest this or that probable cause exists for the charged offense.

3. The history and characteristics of the defendant, including (a) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and (b) whether at the time of the current offense or arrest, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for and offense under Federal, State, or local law:

The defendant has had many difficulties in his life. He suffers from ADHD and OCD, at least according to his mother. The very facts of this case cast great doubt on defendant's mental and emotional stability. He is a long term drug abuser, although now under treatment. He continues to some extent to use illegal substances. He has

a DUI conviction.

Length of residence in the community and community ties weigh in defendant's favor, but do not overcome the other factors which must be considered.

4. The nature and seriousness of the danger to any person or the community that would be posed by the defendant's release:

Defendant has graphically expressed his support for terror organizations. He praises ISIS and Hamas. He characterizes Jews as "vile and utterly evil yahudi scum." He expresses a desire that Jews be sent "unto the maw of the hellfire." He hopes that, Allah willing, "America and its coalition burns in the hellfire."

The defense argues, with some justification, that these statements and others represent merely some strange fantasy that has captivated the defendant. For purposes of the factors in this subsection, however, I cannot overlook what we all know about Islamic terror here and abroad. Lone wolf attacks have become the norm. Considering the highly publicized and murderous attacks of recent months, I must note that these events do not appear to have been strictly directed by ISIS. The perpetrators of these attacks generally have not been formally affiliated with ISIS or other radical Islamist organizations. Unfortunately for Mr. Jackson, his statements potentially place him within the circle of those who, having little or no prior criminal history, have mounted gruesome attacks on innocent people here and abroad.

The statute directs me to consider the "seriousness of the danger" posed by release. The seriousness is great.

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or her designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting for serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of any attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: August 2, 2016.

Charles J. Kahn, Jr.

CHARLES J. KAHN, JR.
UNITED STATES MAGISTRATE JUDGE