

**ORIGINAL**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CRIMINAL NO. 13-20772

Plaintiff,

HONORABLE GERSHWIN A. DRAIN

v.

RASMIEH YOUSEF ODEH,

Defendant.

**F I L E D**  
**MAR 12 2015**  
CLERK'S OFFICE  
U. S. DISTRICT COURT  
EASTERN MICHIGAN

**STIPULATION IN LIEU OF MOTION REGARDING BOND AND  
CONDITIONS OF RELEASE PENDING APPEAL**

The United States and Defendant Rasmieh Yousef Odeh, through their counsel, and pursuant to E.D. Mich. L.R. 7.1(a)(1), stipulate to entry of an order in lieu of the defendant filing a motion seeking bond pending appeal, pursuant to 18 U.S.C. § 3143(b)(1):

1. The government will not object to defendant's request for bond pending appeal, which will encompass a stay of any custodial sentence, the order revoking her United States citizenship, and execution of the judicial order of removal, as referred to and under the terms set forth below.

2. The parties stipulate that the present conditions of release, including the posting of \$50,000 as security for defendant's appearances, shall be continued pending disposition of the appeal of defendant's conviction.

3. The parties stipulate that the Court previously has found by clear and convincing evidence that, in accordance with the ordered terms of release, defendant is not likely to flee or pose a danger to the safety of any other person or the community if released, and that the circumstances regarding defendant's release have not changed in the interim. In addition, and concurrently with the present stipulation, defendant is agreeing to the entry of a judicial order of removal which will facilitate the speedy and efficient removal of her from the United States upon the completion of any custodial sentence, provided that her conviction is affirmed on appeal. The judicial order of removal further helps ensure that defendant is not likely to flee.

4. The parties stipulate that defendant's forthcoming appeal is not for purpose of delay and raises a substantial question of law likely to result in a reversal or order for a new trial. *See* 18 U.S.C. §§ 3143(b)(1)(B)(i) and 3143(b)(1)(B)(ii). In that context, "[A]n appeal raises a substantial question when the appeal presents a close question or one that could go either way and that the question is so integral to the merits of the conviction that it is more probable than not that reversal or a new trial will occur if the question is decided in the defendant's favor." *United States v. Sabino*, 97 F. App'x 626, 627 (6th Cir. 2004), *citing United States v. Pollard*, 778 F.2d at 1177, 1182 (6<sup>th</sup> Cir. 1985) (internal quotation and citation omitted). Among other things, defendant intends to appeal

this Court's ruling that 18 U.S.C. § 1425(a) defines a general intent crime rather than a specific intent crime. *See* Docket Entry 119. While the government believes that the correctness of the Court's ruling will be confirmed on appeal, the government nevertheless cannot dispute that is a "close question, or one which could go either way," *Sabino*, 97 F. App'x at 627, as demonstrated by the fact that the Court first ruled that § 1425(a) was a specific intent crime and only later found that it was a general intent crime. *See* Docket Entry 119. The government further agrees that if § 1425(a) were determined to be a specific intent crime, it is more probable than not that such a ruling would lead to an order for a new trial. *Sabino*, 97 F. App'x at 627.

5. The parties stipulate that if the Court imposes a custodial sentence, and if defendant's conviction is affirmed on direct appeal to the United States Sixth Circuit Court of Appeals, she shall surrender to begin service of that sentence no later than 5:00 p.m. of the second business day following the day on which the opinion affirming the conviction is released, either to the institution designated by the United States Bureau of Prisons, or to the United States Marshal for the Northern District of Illinois or the United States Marshal for the Eastern District of Michigan. The parties stipulate that in the event the conviction is affirmed on direct appeal, bond shall not be continued pending the issuance of the mandate, for the filing of any motion for rehearing or rehearing with suggestion for rehearing en

banc, or for a petition for certiorari to the United States Supreme Court. Defendant may pursue such legal remedies notwithstanding her custody status. If the conviction is affirmed by the United States Sixth Circuit Court of Appeals and defendant chooses to pursue rehearing or rehearing with suggestion for rehearing en banc, or a petition for certiorari to the United States Supreme Court, then defendant may seek bond from any of those Courts. Defendant understands and agrees that under those circumstances, she will have to satisfy the legal standards for bond and she further understands that the government will oppose such requests. Any action by defendant inconsistent with the terms of this stipulation shall be deemed a breach of this agreement and of defendant's conditions of release, and the government may seek any lawful remedy for such a breach, including immediate cancellation of defendant's bond and forfeiture of the \$50,000 posted in connection with it.

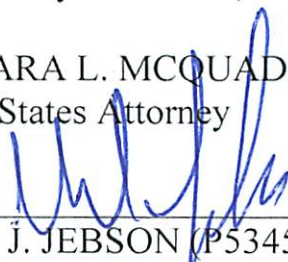
6. In the event that upon completion of the appellate process defendant's conviction is reversed, then the judicial order of removal shall be null and void, and any and all statements of defendant made in connection with it shall be inadmissible in any future criminal proceeding or any future civil or administrative proceeding relating to removal or denaturalization.

7. This stipulation encompasses the complete agreement of the parties. The parties agree that the terms of this stipulation shall not be modified except by

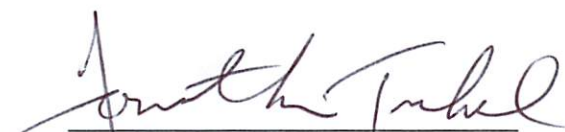
written agreement signed by each of them. The parties agree that they each have participated in the drafting of the stipulation, and that it shall not be construed against either of them by virtue of its draftsmanship.

Respectfully submitted,

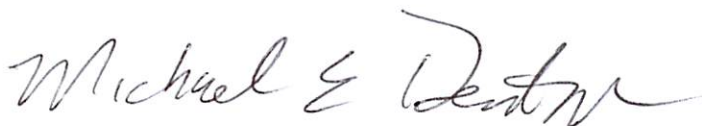
BARBARA L. MCQUADE  
United States Attorney



MARK J. JEBSON (P53457)  
Special Assistant U.S. Attorney  
211 West Fort Street, Suite 2001  
Senior Attorney,  
Detroit Office of Chief Counsel  
Immigration & Customs Enforcement  
Detroit, MI 48226  
(313) 226-9698  
[mark.jebson@dhs.gov](mailto:mark.jebson@dhs.gov)



JONATHAN TUKEL (P41642)  
Assistant United States Attorney  
211 W. Fort, Suite 2001  
Detroit, MI 48226  
(313) 226-9749  
[jonathan.tukel@usdoj.gov](mailto:jonathan.tukel@usdoj.gov)



MICHAEL E. DEUTSCH  
Attorney for Rasmieh Odeh  
1180 N. Milwaukee Ave.  
Chicago, IL 60642  
Phone: (773) 235-0070  
Email: [michaeled45@gmail.com](mailto:michaeled45@gmail.com)

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