

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
JUN 21 2016
U.S. CLERK'S OFFICE
INDIANAPOLIS, INDIANA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 AKRAM MUSLEH,)
)
)
)
 Defendant.)

Cause No. 1:16-mj-00444-TAB

**GOVERNMENT'S MOTION THAT DEFENDANT BE DETAINED
PRE-TRIAL, PURSUANT TO 18 U.S.C. § 3142**

The United States of America ("the government") moves for the pre-trial detention of defendant AKRAM MUSLEH on the following grounds:

1. The defendant is charged with providing material support or resources to a foreign terrorist organization (the Islamic State of Iraq and the Levant ("ISIL")), in violation of 18 U.S.C. § 2339B(a)(1).
2. This case involves a serious risk that defendant will flee. The complaint alleges that during 2016, defendant intended to travel from the Southern District of Indiana to New York where he was to fly to and transit through Morocco to ISIL-controlled territory to provide material support to ISIL by joining and providing himself as personnel. Defendant's intent to engage in such travel is supported by the fact that during April-June 2015, he made four prior attempts to travel to Turkey and one attempt to travel to Iraq. The last of these unsuccessful attempts ended on June 23, 2015, at Chicago's O'Hare Airport after he obtained a boarding pass for an international flight to Istanbul via Rome.

United States Customs and Border Patrol prevented defendant from boarding the flight because his United States passport lacked the requisite six month period of validity required of travelers to Turkey.

3. This case also involves a serious risk that defendant will obstruct or attempt to obstruct justice, and pose an unacceptable risk to the safety of the community. As alleged in the complaint, defendant has conducted internet searches of commercial websites for pressure cookers and internet searches for various explosives, instructions for constructing explosive devices, and explosive chemical recipes. Pressure cookers and explosives have been used as components of improvised explosive devices.

General Principles

Once it is determined that a defendant qualifies for a detention hearing, the court may order a defendant detained before trial if the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community. 18 U.S.C. § 3142(e). Detention may be based on a showing of either dangerousness or risk of flight; proof of both is not required. *See United States v. Fortna*, 769 F.2d 243, 249 (5th Cir. 1985).

With respect to reasonably assuring the appearance of the defendant (risk of flight), the United States bears the burden of proof by a preponderance of the evidence. *United States v. Portes*, 786 F.2d 758, 765 (7th Cir. 1985). With respect to reasonably assuring the safety of any

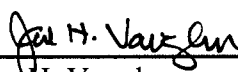
other person and the community (danger to the community), the United States bears the burden of proving its allegations by clear and convincing evidence. 18 U.S.C. § 3142(f).

However, the charge in this case creates a rebuttable presumption in favor of detention. Title 18, United States Code, Section 3142(e)(3)(C), provides that “[s]ubject to rebuttal by the person, is shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community the judicial officer finds that there is probable cause to believe that the person committed-- . . .” an offense listed in 18 U.S.C. § 2332b(g)(5)(B), for which the maximum term of imprisonment exceeds ten years. Title 18, United States Code, Section 2332b(g)(5)(B)(i), lists the offense of providing material support to terrorist organizations, in violation of 18 U.S.C. § 2339B. By issuing the complaint in this cause, this Court has found probable cause to believe defendant violated § 2339B, the penalty for which is a period of up to twenty years’ incarceration.

Respectfully submitted,

JOSH J. MINKLER
UNITED STATES ATTORNEY

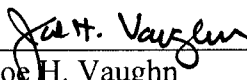
By:



Joe H. Vaughn
Assistant United States Attorney
Assistant United States Attorney
Office of the United States Attorney
10 W. Market St., Suite 2100
Indianapolis, Indiana 46204-3048
Telephone: (317) 226-6333
Fax: (317) 226-6125
E-mail: Joe.Vaughn@usdoj.gov

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing Government's Motion That Defendant Be Detained Pre-Trial, Pursuant To 18 U.S.C. § 3142, upon the defendant, by hand delivering a copy to counsel of record in open court on this 21st day of June, 2016.



Joe H. Vaughn
Assistant United States Attorney

Office of the United States Attorney
10 West Market Street, Suite 2100
Indianapolis, Indiana 46204-3048
Telephone: 317-226-6333