

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL ACTION

VERSUS

17-241

IRVIN MAYFIELD
RONALD MARKHAM

SECTION "A" (1)

ORDER AND REASONS

Defendants Irvin Mayfield and Ronald Markham have filed a Motion for De Novo Review of Magistrate Judge's Denial of Amendment to Release Conditions and Request for Evidentiary Hearing (Rec. Doc. 39), which challenges the magistrate judge's denial of their motion for modification of bond conditions (Rec. Docs. 31 & 37).

Defendants are currently under federal indictment for various non-violent crimes. Following their arraignment on January 4, 2018, both defendants were released on \$25,000 unsecured appearance bonds. Their current conditions of release allow them to travel in the continental United States with prior approval of the United States Probation Office. It is undisputed that thus far both defendants have complied with all of the conditions of their pretrial release.

The Soweto International Jazz Festival has invited Mayfield, an internationally renowned trumpet player and jazz musician, to play at its summer festival in Johannesburg, South Africa in June. As the headlining musician, Mayfield is permitted to select up to three band members to travel with him to perform. If permitted to travel to the festival, Mayfield would select Markham, his longtime pianist, to accompany him.

Defendants sought permission from the court to travel to Johannesburg for

employment purposes related to the festival. Following a hearing, the magistrate judge denied relief and Defendants now appeal that decision.

The Court held a status conference on May 19, 2018, at which time the Court shared with counsel its leanings regarding the motion. The probation officers for each defendant were present at the conference and the Court questioned them regarding their testimony before the magistrate judge. (Rec. Doc. 41).

The Government has filed its opposition, and Defendants have informed the Court that they will not file a reply. All parties have agreed that another live evidentiary hearing is not necessary.

Under the Bail Reform Act, 18 U.S.C. § 3141, *et seq.*, a magistrate judge's pretrial detention order is subject to de novo review by the district court. *United States v. Fortna*, 769 F.2d 243, 249 (5th Cir. 1985) (citing *United States v. Freitas*, 602 F. Supp. 1283, 1293 (N.D. Cal. 1985); 18 U.S.C. § 3145(b)). The Act requires pretrial release under the least restrictive condition or combination of conditions that will reasonably ensure the appearance of the person as required and the safety of the community. *United States v. Barnett*, 986 F. Supp. 385, 392 (W.D. La. 1997 (citing 18 U.S.C. § 3142(b); *United States v. Motamedi*, 767 F.2d 1403, 1405 (9th Cir. 1985)).

The Court, having considered the nature of the charged crimes, Defendants' exemplary compliance with their pretrial release conditions thus far, Defendants' significant personal and family ties to this community, and the testimony of the probation officers, in which they opine that Defendants are not a flight risk, GRANTS Defendants' motion as follows: Defendants will be permitted to travel to Johannesburg, South Africa for a total of six days (exact dates yet to be determined) subject to Defendants

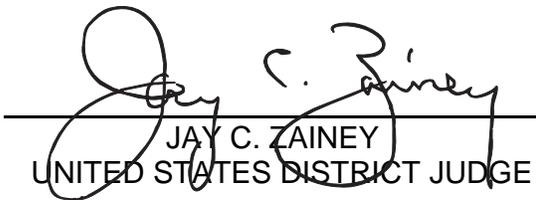
complying with the following additional conditions of release: 1) each defendant must provide a \$100,000 property bond that will be in effect until he returns to the United States at the end of the trip; 2) before leaving the United States each defendant must execute a waiver of extradition and waiver of bond (while in South Africa); and 3) upon arriving in South Africa, each defendant must report to the U.S. Consulate Johannesburg. The United States Probation Office will release to Defendants the passports that they surrendered, and Defendants will be allowed to renew their passports and obtain the necessary travel documents for the trip. The passports will be surrendered to the Probation Office at the conclusion of the trip, and the prior prohibitions on obtaining a passport or other international travel document, and traveling outside the continental United States, will reattach.

With the foregoing additional restrictions in place, the Court is persuaded that Defendants do not present a flight risk.

Accordingly, and for the foregoing reasons;

IT IS ORDERED that the **Motion for De Novo Review of Magistrate Judge's Denial of Amendment to Release Conditions and Request for Evidentiary Hearing (Rec. Doc. 39)** filed by Defendants Irvin Mayfield and Ronald Markham is **GRANTED** as explained above.

March 22, 2018



JAY C. ZAINY
UNITED STATES DISTRICT JUDGE