

ENTERED

May 07, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CRIMINAL NO. 13-CR-0597
	§	
JAVIER FRANCISCO MERCADO	§	

ORDER OF DETENTION PENDING TRIAL

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), the Government moved for detention in this case. I conclude that the following facts are established by a preponderance of the evidence or clear and convincing evidence and require the detention of the defendant pending trial in this case.

Findings of Fact

- A. Findings of Fact [18 U.S.C. § 3142(e), § 3142(f)(1)].
 - (1) The defendant has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
 - a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
 - an offense for which the maximum sentence is life imprisonment or death.
 - an offense for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. () § 801 et seq. () § 951 et seq. () § 955(a).
 - a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1) (A)-(C), or comparable state or local offenses.
 - (2) The offense described in finding 1 was committed while the defendant was on release pending trial for a federal, state or local offense.
 - (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding 1.
 - (4) Findings Nos. 1, 2, and 3 establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community. I further find that the defendant has not rebutted this presumption.

B. Findings of Fact [18 U.S.C. § 3142(e)]

(1) There is probable cause to believe that the defendant has committed an offense

for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C.

§ 801 et seq. § 951 et seq. § 955(a).

under 18 U.S.C. § 924(c).

(2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

C. Findings of Fact [18 U.S.C. § 3142(f)(2)]

(1) Defendant is accused of conspiracy to possess with intent to distribute a controlled substance in violation of 21 U.S.C. §§ 841 and 846, conspiracy to manufacture/distribute a controlled substance in violation of 21 U.S.C. §§ 959, 963, and 960, laundering of monetary instruments in violation of 18 U.S.C. §§ 1956 and 2, and possession with intent to distribute a controlled substance in violation of 21 U.S.C. § 841 and 18 U.S.C. § 2.

(2) There is a serious risk that the defendant will flee.

(3) Defendant represents a danger to the community.

(4) There is a serious risk that the defendant will (obstruct or attempt to obstruct justice) (threaten, injure, or intimidate a prospective witness or juror, or attempt to do so).

D. Findings of Fact [18 U.S.C. § 3142(c)]

(1) As a condition of release of the defendant, bond was set as follows:

(2)

(3) I find that there is no condition or combination of conditions set forth in 18 U.S.C. § 3142(c) which will reasonably assure the appearance of the defendant as required.

(4) I find that there is no condition or combination of conditions set forth in 18 U.S.C. § 3142(c) which will reasonably assure the safety of any other person or the community.

Written Statement of Reasons for Detention

I find that the accusations in the complaint and the information submitted in the Pretrial Services Agency report and at the hearing establish by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.

I conclude that the following factors specified in 18 U.S.C. § 3142(g) are present and are to be taken into account:

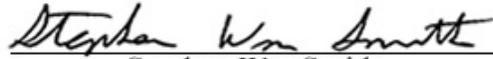
1. Defendant is a 55-year old naturalized citizen of the United States born in Mexico. Both of his parents are deceased and he has eight living siblings. Three of his siblings reside in Mexico, and the remaining reside in San Antonio, Mission, Laredo, and Dallas, Texas.
2. Defendant resided in Mexico for the first 22 years of his life. While there, he obtained a college degree in mechanical engineering. He then resided in San Antonio, Texas for 20 years, and Laredo, Texas for 7 years. For the past 4 years, defendant has resided in Mexico.
3. Defendant was married from 1986-2010 to a permanent resident alien. They have 2 children, who reside with their mother in Laredo, Texas.
4. Defendant has been self employed for the past 14 years. His business specializes in the instillation and maintenance of commercial air conditioning and refrigeration systems. Defendant estimated his monthly income to be \$4,000, and his monthly expenses are about \$700. Defendant reported previous employment as a maintenance engineer for 13 years at the Texas Center for Infectious Disease Hospital in San Antonio, Texas.
5. Defendant did not report any significant assets in the US. He previously owned property in Laredo, Texas, but his wife was awarded ownership per their divorce decree.
6. Defendant's substance abuse history consists of alcohol, cannabinoids, and cocaine.
7. Defendant's criminal history consists of conspiracy to distribute marijuana, and possession of marijuana.
8. There is no condition or combination of conditions of release which would assure the appearance of the defendant in court. Detention is ordered.

Directions Regarding Detention

It is therefore ORDERED that the defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or 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 an 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 all court proceedings.

Signed at Houston, Texas, on April 30, 2018.



Stephen Wm Smith
United States Magistrate Judge