

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:14 CR 241 CDP
)
JAIME DE LA TORRE-DEL REAL, et al.,)
)
Defendants.)

ORDER SETTING CONDITIONS OF RELEASE

Defendant Jaime De La Torre-Del Real came before the court on August 19, 2014, for a hearing on the recommendation of the government (Doc. 24-1 at 3) that defendant Jaime de la Torre-Del Real be detained under the Bail Reform Act of 1984, 18 U.S.C. § 3142; and upon the motion of defendant Real (Doc. 45) that he be released.

Defendant Real is charged in the one count indictment with co-defendants Agatha Hiebert-Peters and David Guenther with conspiracy to possess one kilogram of heroin or more with the intent to distribute it. The court is advised that conviction for this offense carries a statutory maximum penalty of imprisonment for not less than ten years.

The Bail Reform Act places upon the government a substantial burden of proof regarding whether a person should be detained.

Only if the government shows by clear and convincing evidence that no release condition or set of conditions will *reasonably assure* the safety of the community and by a preponderance of the evidence that no condition or set of conditions under subsection (c) [of 18 U.S.C. § 3142] will *reasonably assure* the defendant's appearance can a defendant be detained before trial.

United States v. Kisling, 334 F.3d 734, 735 (8th Cir. 2003) (quoting United States v. Orta, 760 F.2d 887, 891 & n. 20 (8th Cir. 1985) (en banc)).

In response to the presumption, the burden is upon the defendant to produce some evidence that there are conditions of release which will reasonably assure that he will not pose a danger to the community and will not flee. United States v. Abad, 350 F.3d 793, 797 (8th Cir. 2003). If the defendant produces such evidence, the statutory presumption does not disappear. Rather, the court must consider Congress's finding that drug traffickers pose special risks of flight and a

danger to the community. Throughout all, the government retains the burden of proof described above. Id. And the defendant retains the constitutional presumption of innocence. 18 U.S.C. § 3142(j).

At the detention hearing, the parties had no disagreement with the facts set forth in the written report of the pretrial services officer, filed August 13, 2014. (Doc. 34.) Therefore, the court hereby adopts and incorporates by reference into this order the facts set forth in this report.

Following the detention hearing, the court requested the Pretrial Services Office to have a home study and interview of defendant's paramour in Wisconsin performed. That was accomplished on August 26, 2014. The Pretrial Services Office has reported that defendant's paramour, Katie Jayne Ruetten, resides at 6237 Douglas Ave., in Racine, Wisconsin with their two daughters and infant son. Defendant is the sole provider for them. Their relationship began 7 years ago. She and her oldest daughter have passports. She does not work. There is no firearm in the residence; however, Ms. Ruetten showed the Pretrial Services Officer a bow and arrow set and a b-b gun. Ms. Ruetten has a minor criminal record (shoplifting while a juvenile, an adult arrest for being in a stolen car (but released without charges), and spending the night in jail for failing to pay a traffic ticket).

From the record, including the written pretrial services officer's reports and the statements of counsel at the detention hearing, the court makes the following findings and conclusions. Defendant Real is 30 years of age. He entered the United States illegally in 2002. Since his entry he has resided in several states and Canada. He has resided in Wisconsin for 5 months, with his paramour and their two children. Since his arrest she has given birth to their third child. He would reside with her if released from custody. Before his arrest in this case, defendant was self-employed for 3 years as a mechanic and as a roofer. Defendant has no known criminal record. The federal Bureau of Immigration and Customs Enforcement has lodged a detainer for defendant Real with the Marshals Service.

From the record before it, the undersigned finds that the statutory presumption for detention has been rebutted by the facts that defendant has been in the United States for a substantial period of time without developing any criminal record, he has been gainfully employed, and he has strong family roots in Wisconsin.

After due deliberation and consideration of the record, including the very serious crime with which defendant is charged, the court finds and concludes that the conditions of release, set forth below, will reasonably assure the court that defendant Jaime De La Torre-Del Real will not be a danger to the community and will not flee. See 18 U.S.C. § 3142(b), (c). In his motion for release, defendant expressed his knowledge that he would likely be taken into custody by the Bureau of Immigration and Customs Enforcement and would have to seek release on bond from that agency.

Therefore,

IT IS HEREBY ORDERED that defendant Jaime De La Torre-Del Real be released from the custody of the Marshals Service upon the following conditions of release:

1. Bail is set in the amount of \$5,000.00, to be secured by the deposit of \$500.00 in cash with the registry of the court.
2. Defendant is committed to home detention in Wisconsin, with location monitoring, in the third party custody of his paramour, Katie Jayne Ruetten, who must sign, under penalty of perjury, a duplicate original of the bond as defendant's third-party custodian and bond surety.
3. Surety Katie Jayne Ruetten must surrender her passport and that of her child to the registry of this district court.
4. Defendant must comply with all non-financial conditions ordered by the court.

/S/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on September 5, 2014.