

- B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3)** (*narcotics, firearm, other offenses*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:
- (1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
 - (2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;
 - (3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
 - (4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; **or**
 - (5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

C. Conclusions Regarding Applicability of Any Presumption Established Above

- The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis, with the evidence or argument presented by the defendant summarized in Part III.C.
- The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted for the reasons summarized in Part III.

OR

- The defendant has not presented sufficient evidence to rebut the presumption. Moreover, after considering the presumption and the other factors discussed below, detention is warranted for the reasons summarized in Part III.

Part III - Analysis and Statement of the Reasons for Detention

- A. After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:
- By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
 - By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.
- B. In addition to any findings made on the record at the hearing, the reasons for detention include the following:
- Weight of evidence against the defendant is strong
 - Subject to lengthy period of incarceration if convicted
 - Prior criminal history
 - Participation in criminal activity while on probation, parole, or supervision

- History of violence or use of weapons
- History of alcohol or substance abuse
- Lack of stable employment
- Lack of stable residence
- Lack of financially responsible sureties
- Lack of significant community or family ties to this district
- Significant family or other ties outside the United States
- Lack of legal status in the United States
- Subject to removal or deportation after serving any period of incarceration
- Prior failure to appear in court as ordered
- Prior attempt(s) to evade law enforcement
- Use of alias(es) or false documents
- Background information unknown or unverified
- Prior violations of probation, parole, or supervised release

C. OTHER REASONS OR FURTHER EXPLANATION:

The defendant's evidence/arguments for release:

In this threats case, Defendant requested that he be released to his home in North Carolina, where he has a roommate, and stated that he would comply with any conditions the Court might deem necessary. Defendant emphasized that he is presumed innocent and has never been convicted of a crime. He also questioned the weight of the evidence, emphasizing that some of the text messages surrounding the allegedly threatening messages at issue show that any threat was not genuine, but merely in jest and not intended to be taken seriously.

Nature and circumstances of offense(s):

Defendant is charged in a criminal complaint with transmitting threats in interstate commerce, possession of an unregistered firearm, and unlawful possession of ammunition. In a series of text messages sent between January 4, 2021 and January 7, 2021, Defendant made multiple threats against elected officials, including the Mayor of D.C. and Speaker of the House. Those messages also included threats against the Washington, D.C. community, such as statements made as he was approaching the city that it was "war time," that he was "3.5 hours from target practice," and that he was going to "[b]urn DC to the [] ground." ECF No.4 at 3 -4. Defendant drove from Colorado to Washington, D.C. between January 6, 2021, and January 7, 2021, with the means to carry out those threats: thousands of rounds of ammunition, including armor-piercing rounds, an assault-style rifle with a telescopic sight, and another firearm with a high capacity magazine. This factor thus weighs strongly in favor of pretrial detention.

The strength of the government's evidence:

The government's evidence is strong, thus this factor weighs in favor of pretrial detention. Counsel for the government proffered that the threatening messages were found on Defendant's cell phone, Defendant admitted the texts were his, and the messages were exchanged with individuals who could be called as witnesses. More, firearms and ammunition were found in Defendant's vehicle, which Defendant admitted was his.

The defendant's history and characteristics, including criminal history:

Defendant has a roommate at his home in North Carolina who Defendant stated could act as a third-party custodian. Defendant has never been convicted of a crime. More, there is no evidence of him failing to appear or failing to follow an order of a court. Although these factors may weigh in favor of release, the seriousness of the nature and circumstances of the offenses, and the strength of the government's evidence that he committed them, outweigh these characteristics. Further, the Court has taken into consideration the matters discussed under seal during the detention hearing which also weigh against Defendant's release.

The defendant's dangerousness/risk of flight:

Defendant is charged with making threats directed at public officials, which were numerous, graphic, and of a disturbing level of intensity. The threats do not appear to have been made in jest. Combined with his travel from Colorado to D.C. and the firepower he brought with him, the undersigned had no confidence that a stay-away order and GPS monitoring, or any other combination of conditions, would be sufficient to reasonably ensure the safety of the community from the danger that Defendant's release would represent.

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's 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 must 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 must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: 01/18/2021



Digitally signed by G. Michael Harvey
Date: 2021.01.18 12:56:10 -05'00'

United States Magistrate Judge