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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Plaintiff,

Vs.

JERMEN RUDD III,

Defendant.

CASE NO. 1:24-CR-00209-KES-BAM

**UNITED STATES' OPPOSITION TO
DEFENDANT'S MOTION FOR BAIL REVIEW**

Defendant Jermen Rudd moves this court for bail review following his August 26, 2024 detention order in the Eastern District of Missouri. Defendant offers no changed circumstances, and the presumption has not been overcome, and he is a flight risk and a danger. He should remain detained.

I. ARGUMENT

A. The defendant has not shown changed circumstances

The Court's prior detention decision controls and the hearing should not reopen unless the Court finds that the defendant has presented information that (1) was previously unknown and (2) material to the issue of detention. 18 U.S.C. § 3142(f).

Defendant's motion identifies three potential changes in circumstances: "Counsel for the defendant believes he has located a sufficient third party custodian as well as a modest cash bail and potentially a property bond." ECF No. 44 at 2:3-5. 18 U.S.C. § 3142(f) requires new information "that was not known to the movant at the time of the hearing." The court has not been provided with sufficient

1 information to know if this information is new. In Rudd's pre-trial services report in Missouri, he
2 identified cash assets and property that were potentially available for a bond. He also identified his
3 fiancée as a person with whom he intended to live. If the proffered custodian, cash bail, and bond are the
4 same considered by the detention court, this information is not new.

5 Even if the proffered custodian and bond is not that discussed in the pre-trial services report,
6 defendant has given no explanation of why this proffered custodian or bond were not known to him at
7 the time of the detention hearing. To reopen detention on bail review, the information must be new;
8 statements that could have been made at detention but were not do not justify reopening. *United States v.*
9 *Dillon*, 938 F.2d 1412 (1st Cir. 1991).

10 **B. The defendant is presumptively a flight risk and danger to the community**

11 Even if the court does find that there is new information, defendant has not overcome the
12 presumption of detention because he has offered no information to overcome it.

13 Rudd is charged with a violation of 21 U.S.C. § 841(a)(1), a drug trafficking offense carrying a
14 statutory 30 years in prison. He is presumptively a flight risk and a danger to the community pursuant to
15 18 U.S.C. § 3142(e)(3)(A). With this presumption against release, the defendant must come forward with
16 sufficient evidence to rebut it. *United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008). The defendant must
17 do more than merely proffer contrary evidence; instead, the presumption remains as an evidentiary finding
18 militating against release that must be weighed along with the other § 3142(g) factors. *Id.*

19 **C. The balance of 18 U.S.C. § 3142(g) factors weigh in favor of detention**

20 Even if the court finds the presumption has been overcome, the defendant should remain
21 detained. Four factors govern the court's determination of detention, and they all weigh in favor of Rudd
22 being detained. 18 U.S.C. § 3142(g). To detain, the government must show a risk of nonappearance by a
23 preponderance of evidence, *United States v. Motamedi*, 767 F.2d 1403, 1407 (9th Cir. 1985), and danger
24 by clear and convincing evidence, *United States v. Gebro*, 948 F.2d 1118, 1121 (9th Cir. 1991).

25 As described below, in addition to the information presented at the original hearing the
26 government has developed additional information that weighs in favor of detention, including additional
27 information about his drug trafficking and additional information about his firearms.
28

1 **1. The nature and circumstances of the crime are extremely serious**

2 Rudd is charged with conspiring to distribute a controlled substance and introducing a narcotic
3 drug to an inmate, both extremely serious crimes. Because of his prior convictions, he is exposed to a
4 maximum penalty of 30 years in prison.

5 The circumstances of these offenses are also extremely serious. On August 6, 2024 Rudd
6 personally mailed a package to the United States Penitentiary at Atwater. The package tested positive for
7 two varieties of synthetic narcotic, AB-CHMINACA and MDMB-4en-PINACA, commonly referred to
8 as “spice.” The package was labeled as legal mail with a false return address to a law firm in order to
9 defeat prison protocols that require ordinary mail to be delivered as copies but allows legal mail to pass
10 into the prison.

11 Troublingly, immediately after opening the narcotics-laced parcel two USP Atwater correctional
12 officers became ill; one of them was transported to the hospital, where he died. The autopsy report
13 indicates that the correctional officer died of natural causes from a heart attack. According to the
14 autopsy report, “the circumstances of death suggest external influences, at least fear in the setting of an
15 apparently criminal act (mailing illicit substances to an inmate). However, there is no evidence that
16 MDMB-4en-PINACA entered his blood stream.”

17 This August 6 mailing is not the only narcotics delivery Rudd is responsible for. Evidence also
18 exists that he sent narcotics to the prison on July 19 and to an unknown recipient on August 15.

19 Since the initial detention hearing, the government has additionally learned in a review of the
20 materials recovered during the search warrant that the defendant was found with multiple other mailing
21 labels with apparently fraudulent “law office” return addresses of the sort used in the instant crime.

22 The seriousness of the defendant’s conduct weighs in favor of detention.

23 **2. The weight of the evidence is strong**

24 While the weight of the evidence is the least significant factor for the court to consider, it is a
25 factor. Rudd was observed on surveillance video mailing contraband packages on two occasions, and
26 was personally observed on a third occasion. License plate reader information additionally corroborated
27 his identity as the mailer. During the August 20, 2024 search of his residence, equipment to soak paper
28

1 with narcotics was discovered, and the defendant additionally made statements admitting his
2 involvement in the crime.

3 The weight of the evidence against the defendant, particularly combined with the extremely
4 lengthy sentence he is facing, weighs in favor of detention.

5 **3. The history and characteristics of the defendant suggest continued danger and flight**
6 **risk**

7 Rudd has at least three prior convictions for drug trafficking, as well as a federal conviction for
8 18 U.S.C. § 924(c) and multiple state convictions for weapons use or weapons possession. He has had
9 prior violations of probation and parole.

10 The government also previously proffered that while agents have been surveilling Rudd, he has
11 engaged in counter-surveillance, including evasive driving while visiting known drug-trafficking areas.

12 Rudd has out of district ties. He was arrested in the Eastern District of Missouri. One of his co-
13 conspirators in this case resides in the Southern District of Indiana, and inmate intercepted messages
14 indicate that she was in personal contact with Rudd in that district.

15 Taken together, all of these factors weigh in favor of detention.

16 **4. The defendant poses an extreme danger to the community**

17 The defendant is distributing narcotics inside the prison, and in this case a correctional officer
18 died shortly after coming into contact with a narcotics-laced parcel mailed by the defendant.

19 His personal also shows high risk. Within the four months prior to his arrest, the defendant was
20 arrested twice for DWI, with his most recent arrest on July 20, 2024 including injury to another person
21 and a charge of fleeing the scene of an injury accident.

22 Defendant's prior record also includes an extensive firearms history; when combined with his
23 penchant for drug dealing, creates a high risk of violence that puts the community at risk. During the
24 search of his residence on August 20, 2024, two firearms associated to him were located at his residence,
25 heightening the risk to the public¹.

27 ¹ In addition to the defendants' firearms, an additional firearm was located that was the lawful
28 firearm of defendant's fiancée. While she is not a prohibited person, she admitted that Rudd had access
to her firearm. She also admitted that she knew Rudd was prohibited but had at least one firearm.

Significantly, since the original detention hearing the firearms located at his residence have been ballistically tested. Preliminary results from one of those firearms shows it linked to cartridges recovered from three different shooting reports in the St. Louis area, one in 2019 listed “Property Damage” and two in 2020 listed “Assault” and “Gunshot Detection.”

Given all of these circumstances, the defendant’s danger means he must be detained.

D. No condition or combination of conditions can insure the safety of the public

Given defendant’s extensive criminal history, including his prior violations of probation and parole, no set of conditions can be trusted to ensure his appearance in court or the safety of the community. Conditions or combinations of conditions can only ensure appearance and community safety when the defendant can be trusted to comply with them. *See Hir*, 517 F.3d at 1092 (affirming detention order despite a laundry list of stringent conditions proposed by Pretrial Services because “in order to be effective” conditions “depend on [the defendant’s] good faith compliance”).

II. CONCLUSION

The Court should continue to detain defendant Rudd. He has not shown changed circumstances, there is a presumption in favor of his detention, and the circumstances of his offense, his history, and the danger he poses means there is clear and convincing evidence that he poses a danger to the community and a preponderance of the evidence that he is a flight risk.

MICHELE BECKWITH
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Date: February 21, 2025

By: /s/ Robert L. Veneman-Hughes
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prohibited from having it.