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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

v.

CARL DELANO TORJAGBO,
Defendant.

CRIMINAL INDICTMENT
NO. 1: 22-CR-171

MOTION TO APPEAL
ORDER OF DETENTION

Now comes defendant, Carl Delano Torjagbo, who moves the Court to appeal its October 21, 2022 order of detention. Under 18 U.S.C $3142(c)(1)(B), a defendant is to be released pending trial "subject to the least restrictive further condition, or combination of conditions, that such Judicial Officer determines will reasonably assure the appearance of the person as required and the safety of any other person and the community". Mr. Torjagbo asserts that there are conditions of bond that would assure his continued appearance and safeguard the safety of the community. In support thereof, Carl Torjagbo shows the Court the following:

STATEMENTS OF FACTS:

1)Kremkov Industries is a mining company that started in 2019. It consisted of two mining sites located in the Western Region 8 acres and the Ashanti Region 10 acres of Ghana.

2) Land survey and Environmental impact assessment commenced in 2014 to 2015 for the Western Region site and 2015 to 2016 for the Ashanti Region site.

3) In 2017 defendant strtated hiring key employees.

4) In 2018 Defendant obtained an EIN number and headquartered company in the United States of America.

5) Towards the end of 2019 Company became fully operational.

Bank Fraud- The Prosecution's claim of Fraud that Kremkov Industry was created in 2021, after the February 20th deadline to be eligible for the PPP loan and that it had no employees and false information was used is speculative due to the following reasons.Defendant submitted an application for PPP loan through J.P Morgan Chase Bank in January, 2021.

The application was rejected initially due to missing information. At the time of the Application Kremkov Industries had approximately 498 employees. The Application Instructions stated if you had not yet filed for taxes submit as close as possible what you intend to file. It also stated to present as prove that Company was operational prior to February 2020 using sales or purchase Invoices of Bank Statement. if Company is not registered with the State.

The initial documents submitted by Defendant were estimates per application instructions. After which an Amended applicatin was submitted. There was nothing ficticious. Even though Company Registered with the State in 2021. There was no legal requirement to be registered with the State in order to be operational. The only requirement was to have an EIN which the Defendant had. Also, since the Prosecution has not been to the mining sites or independently verified it, these alleagations are merely speculative.

Money Laundering- The alleagation that Defendant laundered the money and concealed it's use is wrong due to the followwing reasons. Defendant initially received $9.5 million from J.P. Morgan Chase Bank. $3.0 million of that was transferred to a PNC account ending in 9499 because this account was linked to defendant's payroll account offshore. Shortly after J.P. Morgan Chase Bank froze account ending in 8755. After countless calls to the Bank's Mnanagement, I was told the program run out of money so they had to take the remaining $6.5 million back. Thus, the amount of loan proceeds that Kremkov Industries had was only $3.0 million.

Due to lack of Covid vacination in Ghana at that time and lack of specific dates when they would be available, defendant made a prudent decision to start a Transportation Brokerage Company because even of the loan was used to pay workers and sustain the mining venture, it would have to be closed down. After about 2-3 months into the Brokerage, Defendant realized it was a carries market. At this time, the Bank sent several emails stating that if the funds were not used and the forgiveness period passes, then the loan becomes a regular loan that defendant has to pay at 1% interest rate within 1-5 years. Defendant then decided to add carier operating authority to the brokerage out of the $3.0 million.

1) $900,000 was used to purchase 11 Tractors and 10 Trailers.

2)Two commercial land tracks which were to be developed into Truck Terminals $250,000. The remaining funds has been seized by the government as follows:

PNC Bank Acct # 9849	$1.75 million
Bank of America Acct # 1199	$165,000
PNC Bank Acct # 9814	$10,000
PNC Bank Acct # 9822	$9000.00

The decision to transfer money from one account to another was merlely because of ease of doing business using an account that had the business name. Moreover, Defendant had no reason to conceal use of money that he had to pay back. Also there is no specific rule in the PPP program that prohibits transfer of funds from one account to another.

Proposed Identity Theft and Tax Fraud:

The prosecutions proposed allegation is based merely on the fact that if the company was created in 2021, then a 2020 tax was fictitious and the employees were non existent. This allegation is flawed for the following reason

1. Employees are real and prosecution lacks jurisdiction on this matter since employees were hired in a foreign land and operated in foreign territory.

2. Employees all make less than $125,000 yearly hence are exempted from taxes under foreign earned income tax law. That's why nobody filed for taxes because the have to pay out of pocket to file it and there is Zero return.

3. Company is an LLC and is not subjected to paying taxes.

4. The defendants form 1040 was filed accurately and was thoroughly vetted, Audited and approved by the IRS. There were no fictitious losses

Reasons Why Defendant Should Be Granted Bail

Defendant is willing to make the following concessions to assure the court of his continued appearance

1. Surrender Pilots license
2. Surrender U.S citizenship certificate
3. Health reasons
4. Any other Special conditions imposed by the Court
5. Alleged Crime is Non and defendant is not a threat to society
6. Save a one Failure to appear 20 years ago, defendant has s good track record of showing up to every court hearing

1. Pilots license: Even though prosecutors say defendant is a pilot and the flying skill never leaves him making him a flight risk, defendant cannot rent an airplane or obtain one if he surrenders his pilots license. In order to rent or operate an airplane, defendant needs a pilots license, a valid medical certificate, and a check flight from an FAA approved examiner in order to operate or rent one. By handing over the Pilots license, defendant will not be able to operate or rent one.

2. U.S Citizenship Certificate: Defendant advised the court in the previous hearing all his travel documents among a number of other items were stolen. Defendant currently just received his replacement U.S Citizenship certificate which is needed to obtain a new passport. By surrendering this, he would not be able to obtain a new passport hence unable to travel outside the country.

3. Health Reasons: The defendant has an abnormal EKG and High blood pressure which was diagnosed 5 years ago. The only medication which is effective is Ex-forge 5mg/160 which he imports from Turkey. Generic locally made medications that is provided by the detention center is not working. The normal blood pressure is 120/80 and since defendant got here, his Blood pressure readings are as high as 170/96. If left unchecked or without effective medicine, defendant can die of stroke or heart attack.

Defendant is not a danger to the community and is willing to comply with special conditions such as geo-location monitoring and home confinement. There is nothing in the defendant's past conduct or nature of the instant charged offenses that suggest defendant would victimize anyone in the community. The defendant request that he be released on Bond under whatever conditions the United States Court may deem proper or in the alternate request a hearing. In light of the evidence provided and what has already been stated in the original motion.

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served a true and correct copy of the within and foregoing pleading upon counsel for the government by a certified mail with usps tracking number ________________________

John Russell Phillips, Esq.
Assistant United States Attorney
russell.phillips@usdoj.gov

This 5th day of Feb, 2023.

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