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

UNITED STATES OF AMERICA *v.* CARL DELANO TORJAGBO, a/k/a KARL LUCIUS DELANO	CRIMINAL ACTION NUMBER 1:22-cr-171-MLB-RDC

GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR REVOCATION OF MAGISTRATE JUDGE'S DETENTION ORDER

The United States of America files this response in opposition to Defendant's motion for revocation of the Magistrate Judge's detention order.

Introduction

Pursuant to 18 U.S.C. § 3145(b), Defendant Carl Delano Torjagbo, a/k/a Karl Lucius Delano, asks this Court to conduct a de novo review on the issue of detention, revoke the Magistrate Judge's detention order, and release him on bond pending trial. (Doc. 50). A de novo review of the pleadings and the evidence developed at the detention hearing will show that the Magistrate Judge's factual findings are supported and that the Magistrate Judge's legal conclusions are correct.

Release or detention of a defendant pending trial is governed by 18 U.S.C. § 3142(g). Here, the relevant factors—including the nature and circumstances of the offense charged, the weight of the evidence, the defendant's history and characteristics, and the nature and seriousness of the danger posed by the defendant's release—all weigh in favor of detention. The Magistrate Judge properly considered the § 3142(g) factors and correctly found that Torjagbo should be detained because he is both a flight risk and a danger to the community. This Court should adopt the Magistrate Judge's detention order.

The indictment and the evidence proffered at the detention hearing

Torjagbo was indicted by a grand jury on May 10, 2022. (Doc. 1). He is charged with the following offenses:

- Count 1: bank fraud in violation of 18 U.S.C. § 1344;
- Counts 2 through 4: concealment money laundering in violation of 18 U.S.C. § 1956(a)(1)(B)(i); and
- Counts 5 through 7: transactional money laundering in violation of 18 U.S.C. § 1957.

(*Id.*).

Evidence of bank fraud

JPMorgan Chase Bank is a federally insured financial institution. (*Id.* ¶ 1). Chase participated as a lender in the Paycheck Protection Program (PPP), which was designed to help small businesses survive the COVID-19 pandemic by providing them with funds to cover certain payroll costs, including benefits, interest on mortgages, rent, and utilities. (*Id.* ¶ 3).

To be eligible for a PPP loan, a business had to have been "in operation on February 15, 2020." (*Id.* ¶ 4).

Kremkov Industries LLC is a Georgia entity organized by Torjagbo on January 4, 2021, over 10 months after the PPP-eligibility date had expired. (*Id.* ¶ 5). Kremkov was not eligible for a PPP loan because it was not "in operation on February 15, 2020." (*Id.* ¶ 6).

Torjagbo claims that Kremkov was in the mining business in Africa. (Transcript of Detention Hearing (Tr.) at 28). That is simply not true. Kremkov never conducted any business related to mining or anything else. (Doc. 1 ¶ 7). And it never paid wages to employees because it had no employees. (*Id.*).

Nevertheless, on February 16, 2021, Torjagbo signed a PPP loan application on behalf of Kremkov and submitted it to Chase, requesting a PPP loan of $9,554,425.00. (*Id.* ¶ 8).

Torjagbo swore that the information he provided on Kremkov's PPP loan application and in all supporting documents and forms was "true and accurate in all material respects." (Id. ¶ 9). It was not.

- Torjagbo falsely stated that Kremkov was "in operation on February 15, 2020." (*Id.* ¶ 10).
- Torjagbo falsely stated that a PPP loan was necessary to support the "ongoing operations" of Kremkov. (*Id.* ¶ 11).
- Torjagbo falsely stated that Kremkov had 493 employees. (*Id.* ¶ 12).
- Torjagbo falsely stated that Kremkov had an average monthly payroll of $3,821,770.00. (*Id.* ¶ 13).
- Torjagbo submitted fraudulent documents to Chase, including false tax returns (IRS Forms 940, 941, and 1040) and fake reports that listed the names and make-believe payroll information of 493 people who allegedly worked for Kremkov. (*Id.* ¶ 15).

On March 29, 2021, as a result of Torjagbo's materially false and fraudulent representations, Chase transferred $9,554,425.00 in PPP loan proceeds to Torjagbo's custody and control. (*Id.* ¶ 16).

Evidence of money laundering

The PPP loan proceeds were initially deposited into Kremkov's account at Chase. (*Id.* ¶ 18). Immediately before that deposit, the account balance was only $105.00. (*Id.*).

On Kremkov's PPP loan application, Torjagbo certified that "[a]ll loan proceeds [would] be used only for business-related purposes as specified in the loan application and consistent with the Paycheck Protection Program Rules." (*Id.* ¶ 19). But Torjagbo used the PPP loan proceeds to pay his personal debts and expenses:

- Torjagbo used six different accounts at three different banks to launder the fraud proceeds, including two accounts in the name of Kremkov, three accounts in the name of Carl Torjagbo, and one account in the name of FlyingJack. (*Id.* ¶ 29).

- After March 29, 2021—the date on which Torjagbo received the PPP loan proceeds—there were no significant deposits into any of those six accounts from any legitimate source, and there were only small deposits into a few of those accounts before March 29, 2021.

- On April 8, 2021, Torjagbo transferred $3 million of the PPP loan proceeds from one Kremkov account to another, at a different bank. In the "for" section on that check, Torjagbo wrote "payroll." But Kremkov had no payroll because it had no employees. (*Id.* ¶¶ 22, 7).

- On July 29, 2021—four months after receiving the PPP loan proceeds—Torjagbo filed a petition in the Superior Court of Cobb County, Georgia to change his name to Karl Lucius Delano. (*Id.* ¶¶ 16, 23).

- On August 17, 2021, Torjagbo created "FlyingJack freight& Logistics LLC" and registered it in the State of Wyoming. (*Id.* ¶ 24).

- Torjagbo used more than $950,000 of the PPP loan proceeds that he obtained in the name of Kremkov to pay startup expenses for FlyingJack and to purchase 11 tractor-trailers and a parcel of undeveloped land for FlyingJack. (*Id.* ¶¶ 26, 27; Doc. 1 at Count 4).

- Torjagbo used PPP loan proceeds to purchase the following items for his personal enjoyment:

Date	**Description**	**Amount**
05-28-21	House located at 5114 Greythorne Lane, Marietta, GA, titled in name of Carl Torjagbo	$1,660,861.01
06-11-21	Plastic surgery ("surfer abs") for Carl Torjagbo	$15,030.38
08-06-21	2021 Land Rover Velar, titled in name of Carl Torjagbo	$87,020.00
10-27-21	Undeveloped land - Tract 4, Fiber Drive, Cartersville, GA, titled in name of Karl Lucius Delano	$91,076.66
01-24-22	2022 BMW M850XL, titled in name of Carl Torjagbo	$115,250.79
04-21-22	Down payment on a yacht for Carl Torjagbo	$51,000.00
04-22-22	2014 Lamborghini Aventador, titled in name of Karl Lucius Delano	$332,999.80

Evidence of aggravated identity theft and wire fraud

Torjagbo also committed aggravated identity theft and wire fraud. The Government might add those charges in a superseding indictment. The aggravated identity theft charge arises from the fraudulent documents that Torjagbo submitted to Chase to obtain the PPP loan. The wire fraud charges stem from not just one but two fraudulent tax returns (Forms 1040) for tax year 2020 that Torjagbo electronically filed with the IRS on February 13, 2021—three days before he submitted his fraudulent PPP loan application. One return used Torjagbo's SSN, and the other used his ITIN. Both returns reported large fictitious Form W-2 wages, withholdings, and losses from Kremkov, generating over $6.3 million in total tax refunds. IRS records do not contain any evidence that the alleged wages or withholdings were ever paid. And IRS records show that Kremkov never filed any W-2s or business or employment tax returns for tax year 2020 or for any other tax year. On April 23, 2021, based on the fraudulent Form 1040 that Torjagbo filed using his SSN, the IRS issued a refund check payable to Carl Torjagbo for $3,366,240.76. But the IRS placed an identity theft hold on the Form 1040 that Torjagbo filed using his ITIN, and the IRS did not issue the refund of $3,015,573.00 that Torjagbo requested in that return.

The Magistrate Judge's findings

"The rules concerning admissibility of evidence in criminal trials do not apply to detention hearings, and the parties may proceed solely by proffer." *United States v. Kachkar*, 701 F. App'x 744, 746 (11th Cir. 2017) (citations and quotation marks omitted). The evidence introduced at the detention hearing consisted of the Pretrial Services Report, the Indictment, the Government's proffer, and Torjagbo's proffer.

The Magistrate Judge stated that the following factors led her to conclude that no condition or combination of conditions will reasonably assure Torjagbo's appearance at trial and the safety of the community:

- Torjagbo is "alleged to have defrauded the U.S. government out of $9.5 million. Actually, seeking 13 million, [with] in excess of 6 million still outstanding."
- "[H]e does not have substantial ties to the charging district. He's lived at this address for a year."
- "The Court notes its concern about his use of an alias or changing his identity . . . after the alleged criminal conduct at issue. . . . The Court also notes [that] he's alleged to have committed fraud in both names."
- "[T]he defendant has ties to a foreign country and . . . his family resides in Ghana where he was born."
- "The Court finds there's no verifiable . . . legitimate work history."

- "The Court also notes [that] the defendant, who [is] a trained pilot, is unable to find his passport and could not recall where his passport would be. . . . [T]here's a substantial sum of money that is still outstanding. . . . [He is] a pilot and can rent [an airplane] to flee the country . . . . This was a lot of money barely a year ago. We're not talking about conduct in 2018 or 2017 or 2019. We're talking about substantial sums of money that [he] had last year. . . . But what stands out to me most is the concern about [him being a] pilot."

- Torjagbo was "in the military, [and he] didn't mention that to Pretrial Service or [his] pilot experience."

- This is the largest PPP fraud that I have seen.

- He conducted "an extensive number of transactions between accounts[,] transferring here and there, the . . . $3 million [tax] refund from a business that allegedly did not exist or income [he] did not make."

- "With regard to [defense counsel's statement that Torjagbo had reported to Immigration that his passport had been lost or perhaps stolen by his ex-girlfriend], he was able to manufacture substantial documents to engage in the alleged conduct so he would probably . . . be able to obtain a passport, even if he couldn't find his legitimate one, and because there's a substantial amount of money missing, that money could be used to hire a pilot to fly [him] somewhere close to here. In any event, . . . it does not change the Court's opinion."

(Tr. at 34-37).

After the detention hearing, pursuant to 18 U.S.C. § 3142(i), the Magistrate Judge issued a written order that includes findings of fact and a statement of reasons that Torjagbo should be detained pending trial. (Doc. 11).

Argument

In *United States v. King*, 849 F.2d 485, 490 (11th Cir. 1988), the Eleventh Circuit set forth the procedures to be followed when a defendant moves the district court to revoke a magistrate judge's pretrial detention order under 18 U.S.C. § 3145(b). A district court may adopt the magistrate's order if "a careful review of the pleadings and the evidence developed at the magistrate's detention hearing [shows] that the magistrate's factual findings are supported and that the magistrate's legal conclusions are correct." *Id*. Alternatively, the district court may conduct an evidentiary hearing if it "determines that additional evidence is necessary or that factual issues remain unresolved." *Id*. If, based solely on a careful review of the evidence presented at the magistrate's detention hearing, the district court agrees with the magistrate that pretrial detention is necessary, but determines that some of the magistrate's legal conclusions are incorrect or that some of the magistrate's factual findings are not adequately supported, the district court must issue a written order explaining its decision. *Id*. at 491. "The district court has 'substantial latitude in determining whether pretrial detention is appropriate.'" *United States v. Ellis*, 646 F. App'x 889 (11th Cir. 2016) (quoting *King*, 849 F.2d at 487).

The Bail Reform Act, 18 U.S.C. § 3142, governs the release and detention of defendants awaiting trial. The defendant shall be detained if the court finds that "no condition or combination of conditions will reasonably assure the appearance of the [defendant] as required and the safety of . . . the community." 18 U.S.C. § 3142(e)(1). A finding of either risk of flight or danger to the community is sufficient to detain the defendant pending trial. *King*, 849 F.2d at 488. The government bears the burden of establishing that the defendant should be detained, either by a preponderance of the evidence that the defendant is a flight risk, or by clear and convincing evidence that the defendant is a danger to the community. *United States v. Quartermaine*, 913 F.2d 910, 917 (11th Cir. 1990).

In determining whether a defendant poses a flight risk or a danger to the community, a court must consider (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the defendant's history and characteristics, including, among other things, his family ties, employment, financial resources, length of residence in the community, community ties, and criminal history; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release. 18 U.S.C. § 3142(g). Here, those factors all weigh in favor of detention.

1. The first factor, the nature and circumstances of the offense charged, weighs in favor of detention.

The nature and circumstances of Torjagbo's offenses are serious. The maximum punishment for bank fraud is 30 years in prison. 18 U.S.C. § 1344. The maximum punishment for concealment money laundering is 20 years. 18 U.S.C. §§ 1956(a)(1)(B)(i). And the maximum punishment for transactional money laundering is 10 years. 18 U.S.C. § 1957.

Torjagbo went to great lengths to convert the fraud proceeds to his own use. For example, on August 17, 2021, he created a sham company, FlyingJack. (Doc. 1 ¶ 24). But instead of registering it in the State of Georgia where he lived, he registered it in Wyoming, roughly 1400 miles away. (*See id*.). He then opened a bank account in the name of FlyingJack and used it to launder fraud proceeds. (*Id*. ¶¶ 25-27, 29; Doc. 1 at Counts 4, 7). FlyingJack was not established for valid business purposes; it conducted no legitimate business, it did not earn legitimate income, and its corporate office was little more than a mail drop. *See Comptroller of The Treasury v. Syl, Inc.*, 375 Md. 78, 106, 825 A.2d 399, 415 (2003) (describing the characteristics of a sham company).

Kremkov had only $105.00 in its bank account immediately before receiving over $9.5 million in PPP loan proceeds. (Doc. 1 ¶ 18). This belies Torjagbo's sworn statement in his PPP loan application that Kremkov employed 493 people and had an average monthly payroll of more than $3.8 million.

Torjagbo used six accounts at three different banks to launder the PPP loan proceeds. (*Id.* ¶ 29). Using "multiple bank accounts . . . to conceal income and cash expenditures" is a sign that Torjagbo's scheme was sophisticated. *See United States v. Suarez*, 364 F. App'x 602, 605 (11th Cir. 2010); *see also United States v. Reyes*, 781 F. App'x 965, 969 (11th Cir. 2019) (finding that defendant's money laundering was "sophisticated" because he wired fraud proceeds to bank accounts in the names of "fictitious entities and shell corporations that existed only to launder money"); *United States v. Clarke*, 562 F.3d 1158, 1166 (11th Cir. 2009) (stating that there is "no material difference between concealing income and transactions through the use of third-party accounts . . . and using a corporate shell or a fictitious entity to hide assets").

After March 29, 2021—the date on which Torjagbo first received control of the PPP loan proceeds—there were no significant deposits into any of Torjagbo's six accounts from any legitimate source, and there were only small deposits into a few of those accounts before March 29, 2021.

After the detention hearing, the Government uncovered evidence of aggravated identity theft. *See United States v. Keel*, No. 1:16-CR-187-CAP-JKL, 2017 WL 1371870, at *1 (N.D. Ga. Apr. 17, 2017) (adopting the magistrate judge's detention order and noting that the government's investigation showed that the defendant was an even greater danger to the community than the government realized at the time of the detention hearing). Even if aggravated identity theft charges are not added, given the enormous loss amount in this case and the sophisticated conduct involved, Torjagbo faces a significant sentence under the U.S. Sentencing Guidelines. *See* U.S.S.G. § 2B1.1.

The nature and circumstances of the offense charged weigh in favor of detention.

2. The second factor, the weight of the evidence against the defendant, weighs in favor of detention.

Bearing in mind the general presumption of innocence in criminal cases, the Court nevertheless must consider the weight of the evidence against the defendant in determining whether detention is appropriate. The grand jury's indictment, standing alone, establishes probable cause for purposes of the Bail Reform Act. *See United States v. Hurtado*, 779 F.2d 1467, 1477 (11th Cir. 1985) (stating that "the return of a true bill by a grand jury, resulting in indictment, conclusively demonstrates that probable cause exists implicating a citizen in a crime").

Torjagbo does not deny that he received the $9,554,425.00 PPP loan described in the indictment or the $3,366,240.76 tax refund described at the detention hearing, nor does he deny that he engaged in the specific financial and monetary transactions described in the indictment. (*See* Tr. at 12-14, 25). The Government's evidence consists of, among other things, bank records, tax records, emails, records maintained by the Georgia Secretary of State and the Superior Court of Cobb County, Georgia, and documents showing how Torjagbo laundered the fraud proceeds. The overwhelming evidence against Torjagbo weighs in favor of detention.

3. The third factor, the defendant's history and characteristics, weighs in favor of detention.

In evaluating the defendant's history and characteristics, the Court considers, among other things, the defendant's family ties, employment, financial resources, length of residence in the community, community ties, and criminal history. 18 U.S.C. § 3142(g). Evidence concerning the defendant's history and characteristics may be presented through written reports prepared by the Pretrial Services Division of the United States Probation Office. *United States v. Young*, 647 F. Supp. 1128, 1131 (N.D. Ga. 1986).

Torjagbo's community ties are weak. Defense counsel told the Magistrate Judge that Torjagbo had been living in Atlanta for "approximately the past couple of years." (Tr. at 28). At the time he was indicted, however, Torjagbo had been living at 5114 Lane, Marietta, Georgia for just one year—in a house that he purchased for $1,660,861.01 in cash and paid for entirely with fraud proceeds. (*Id*. at 14, 15, 21, 37). He lived there alone. (*Id*. at 21). That property is subject to forfeiture. (Doc. 1, Forfeiture Provision). Torjagbo told Pretrial Services that he intends to keep living there if the Court lets him out on bond. (*Id*. at 13-14).

Torjagbo moved for reconsideration of his detention order and alleged that he "has a local support group of friends and family, including a relative" with whom he can live if he is released on bond. (Doc. 31 ¶ 4). He did not provide further details, such as the names and addresses of these people.

Torjagbo is not married and has no children; his parents and siblings all live in Ghana, where he was born. (Tr. at 15, 20, 21). Defense counsel told the Magistrate Judge that Torjagbo "was in the process of applying for his family to be able to come here with visas to visit him." (*Id*. at 29). Torjagbo wired more than $80,000 of the fraud proceeds to his mother in Ghana because she was sick and needed medical treatment. (*Id*. at 20-21). That is yet another reason to believe that Torjagbo might flee if released on bond.

Torjagbo's relatively brief residence in the community, his lack of community ties in this district, and his strong family ties in Africa all weigh in favor of detention.

Torjagbo's lack of legitimate employment and lack of financial resources also weigh in favor of detention. Torjagbo told Pretrial Services that he was employed by FlyingJack and had been for eight months. (*Id*. at 14, 21). FlyingJack was funded entirely by fraud proceeds and had no legitimate income with which to pay Torjagbo a salary. PPP loan proceeds must be used solely for the business that obtained the loan. Here, that was Kremkov. At the detention hearing, however, defense counsel admitted that Torjagbo used PPP loan proceeds to buy "physical assets like tractors and trailers [for] his other business," FlyingJack. (*Id*. at 26, 28). Torjagbo reported having no employment other than FlyingJack, and he reported no other financial resources. All of the tractor-trailers and real property that Torjagbo purchased in the name of FlyingJack were paid for entirely with fraud proceeds and are subject to forfeiture. (Doc. 1, Forfeiture Provision).

Contrary to what he told Pretrial Services, Torjagbo told the IRS that he was employed by Kremkov (rather than FlyingJack) and that he earned almost $9.2 million in wages from Kremkov in 2020. (Tr. at 22). That was not true. Torjagbo's dishonest statements concerning his employment and income also weigh in favor of detention.

The next factor is Torjagbo's criminal history. It, too, weighs in favor of detention. Torjagbo does not have any felony convictions, but he was twice charged with failure to appear in connection with misdemeanor offenses. (Tr. at 23). Failure to appear "shows, at best, a disregard for a court's requirements and rules, and certainly is strong evidence that the trend of failing to appear for court will continue if not detained in this case." *United States v. Munoz-Hernandez*, No. CR 12-0128 JB, 2012 WL 5476892, at *11 (D.N.M. Nov. 5, 2012). Torjagbo was also charged with driving on a suspended license. (Tr. at 23). As with the failure-to-appear charges, driving on a suspended license shows that Torjagbo has "little to no respect for the law." *United States v. Wilson*, No. 13-CR-2011 CJW-MAR, 2020 WL 5894193, at *6 (N.D. Iowa Oct. 5, 2020); *see also United States v. Tann*, No. CRIM.A.04-392(CKK), 2006 WL 1313334, at *5 (D.D.C. May 12, 2006) (denying bond pending sentencing because defendant's behavior "force[d] the Court to question her personal characteristics, such as her capacity for honesty, her respect for the law, and her ability to be cabined by legal consequences").

Torjagbo was also charged with aggravated assault, but that charge was dead docketed. (Tr. at 23). In addition, he was charged with simple battery, family violence, false imprisonment, and intimidating and harassing a 911 operator. Those charges were also dead docketed. (*Id*. at 23-24). Even though those charges did not result in a conviction, the Court can consider them in determining whether pretrial detention is appropriate. *See United States v. Rich*, No. CR RDB-19-0506, 2020 WL 2747395, at *3 (D. Md. May 27, 2020) (denying defendant's motion for reconsideration of pretrial detention, and stating that although an assault charge that was pending at the time of the detention hearing "has since been nolle prossed, this fact does not have a material bearing on the court's detention analysis").

At the detention hearing, Torjagbo argued that his prior arrests "are extremely dated" and involved "minor things." (Tr. at 31). This Court takes a defendant's "entire history into account in making the determination of whether he is a danger to the community." *United States v. Gray*, No. 22-CR-20258, 2022 WL 4379583, at *4 (S.D. Fla. Sept. 22, 2022).

Torjagbo has special skills that also make him a flight risk: he is both a licensed airline transport pilot and a flight instructor. *See United States v. Armstrong*, 397 F. App'x 466, 468 (10th Cir. 2010) (finding that the defendant was a flight risk because he "had a pilot's license, traveled frequently to Mexico where he owned property and his wife had a real estate business, and transferred and received money from overseas banks"); *United States v. Farrell*, 115 F. Supp. 3d 746, 763 (S.D.W. Va. 2015) (finding that defendant's "British citizenship, passport, and private pilot's license furnished an objective factual basis for determining that [he] was a flight risk"); *United States v. Nichols*, No. CRIM.A. 15-

85-01, 2015 WL 2126807, at *3 (E.D. Pa. May 5, 2015) ("Given defendant's limited ties to the Philadelphia area, his connections to California, his flight training, and his history of accessing large sums of cash, the Court determines that defendant would pose a flight risk if released pending trial.").

Torjagbo's skill as a pilot would remain with him even if he were to surrender his pilot's license. And as the Magistrate Judge found, because a large part of the fraud money is still unaccounted for, Torjagbo presumably has the money to rent an airplane and leave the country by either flying the plane himself or by hiring someone else to fly it for him. (Tr. at 38).

When Torjagbo was employed as an airline pilot at FlyDubai Airlines and SkyWest Airlines, he traveled all over the world. Since he was born in Ghana and still has family there, he could easily leave this district permanently if given an opportunity to do so. *See United States v. Kachkar*, 701 F. App'x at 747 (holding that a large amount of "unaccounted for" fraud money and defendant's "significant ties and travel to foreign countries" supported the district court's finding that defendant was a flight risk).

Torjagbo's risk of flight cannot be adequately addressed simply by requiring him to post a secured bond. A defendant facing a lengthy prison sentence "might well prefer to lose his financial assets rather than his freedom." *United States v. Sabhnani*, 493 F.3d 63, 77 (2d Cir. 2007). "Further, [he] might easily persuade some friend or family member to lend [him] the money necessary to finance flight from the United States. Neither such a modest indebtedness nor forfeiture of [multimillion-dollar] bail bonds is likely to have long-term negative consequences for [him]." *Id*.

Torjagbo claims that he reported his passport lost or stolen in August 2021. (Tr. at 37). But as the Magistrate Judge recognized, since Torjagbo "was able to manufacture substantial documents" to engage in the fraudulent conduct alleged in the indictment, he would probably be able to "obtain a [fraudulent] passport, even if he couldn't find his legitimate one." (*Id*. at 38). "Defendant's access to and capability of obtaining fraudulent identity documents supports a finding that he is a risk of flight." *United States v. Rives*, No. 1:14-CR-00130-TWT-JFK-4, 2014 WL 12698578, at *2 (N.D. Ga. Oct. 7, 2014); *see also United States v. Alfred*, No. 1:16-CR-245-01-WSD, 2016 WL 5389185, at *2 (N.D. Ga. Sept. 27, 2016) (finding that defendant presented a flight risk because he had family and friends in Trinidad and visited them often and was "facing serious federal felony offenses and ha[d] been put on notice that more significant charges [might] be presented to the grand jury”).

On balance, Torjagbo’s history and characteristics weigh in favor of detention, and the Magistrate Judge properly found that no conditions of release would guarantee his appearance at trial.

4. The fourth factor, the nature and seriousness of the danger to any person or the community that would be posed by the defendant’s release, weighs in favor of detention.

Torjagbo is not charged with crimes of violence, but he is charged with extremely serious fraud and money laundering offenses, and he faces the possibility of being charged with multiple counts of aggravated identity theft. The Magistrate Judge properly found that no conditions of release would guarantee the safety of the community if Torjagbo were released pending trial. (Tr. 36-37). The record and the relevant case law amply support that finding.

A defendant may pose a danger to the community not only through “physical violence” but also if he “might engage in criminal activity to the detriment of the community.” *King*, 849 F.2d at 487 n.2; *see United States v. Wardlaw*, No. 1:08-CR-478-JTC, 2009 WL 10674241, at *2 n.1 (N.D. Ga. Jan. 27, 2009) (recognizing that “[d]anger to the community also encompasses pecuniary or economic harm, not just physical harm"); *see also Rives*, 2014 WL 12698578, at *3 (affirming defendant's detention order because the community would be exposed to the danger of further "financial fraud and identity theft" if defendant were released on bond). Hence, the Magistrate Judge was correct in finding that Torjagbo's release would pose a danger to the community. (*See* Tr. at 36-37).

Conclusion

For all of the foregoing reasons, this Court should adopt the Magistrate Judge's detention order.

Respectfully submitted,

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Certificate of Service

I hereby certify that, on March 14, 2023, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system.

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