

LA8TILOC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

20 CR 378 (LJL)

5 ADEDAYO ILORI,

6 Defendant.

7 -----x

8 New York, N.Y.
9 October 8, 2021
4:30 p.m.

10 Before:

11 HON. LEWIS J. LIMAN,

12 District Judge

13
14 APPEARANCES

15 AUDREY STRAUSS

United States Attorney for the
Southern District of New York

16 CECILIA VOGEL

17 DANIEL NESSIM

Assistant United States Attorneys

18 SIMPSON THACHER & BARTLETT

Attorneys for Defendant

19 BROOKE CUCINELLA

20 EAMONN CAMPBELL

21 ALSO PRESENT: JOSH ROTHMAN, U.S. Pretrial Services
22 (Telephonic appearance)

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1 (In open court)

2 THE COURT: I understand I'm here for a bail
3 revocation matter in the case of U.S. against Adedayo Ilori.

4 Who is present for the government?

5 MS. VOGEL: Yes, your Honor, you have Cecilia Vogel
6 and Daniel Nessim for the government.

7 THE COURT: Good afternoon.

8 For the defense?

9 MS. CUCINELLA: Good morning, your Honor, Brooke
10 Cucinella from Simpson Thacher on behalf of Mr. Ilori. I am
11 joined by Eamonn Campbell, an associate of the firm, and, of
12 course, Mr. Ilori is here as well.

13 THE COURT: Good afternoon.

14 Good afternoon, Mr. Ilori.

15 And is pretrial services available on the telephone?

16 MR. ROTHMAN: Good afternoon, your Honor, Josh Rothman
17 for pretrial services.

18 THE COURT: Good afternoon, Mr. Rothman.

19 So I have got the government's letter of today. I
20 assume that's been provided to the defense?

21 MS. VOGEL: Yes, it has, your Honor.

22 THE COURT: Why don't I hear from you first,
23 Ms. Vogel, and then I will hear from the defense.

24 MS. VOGEL: Yes, your Honor. So the government is
25 moving to have the Court revoke bail in this case for

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1 Mr. Ilori. The standard is under 18 USC 3148, which provides
2 that the Court shall revoke bail if the Court finds that there
3 is probable cause to believe that the defendant has committed a
4 federal, state or local crime, and finds that, based on the
5 factors in the bail statute 3142, there's no condition or
6 combination of conditions of release that would assure the
7 person will not flee or pose a danger to the safety of any
8 other person in the community, or that the person is unlikely
9 to abide by any condition or combination of conditions of
10 release.

11 THE COURT: And I'm aware, also, that the statute
12 creates a rebuttable presumption that if there's probable cause
13 to believe that the person committed a federal, state or local
14 felony, that no condition or combination of conditions will
15 assure that the person will not pose a danger to the safety of
16 any other person or the community. Am I correct?

17 MS. VOGEL: Yes, that's correct, your Honor. And the
18 government's position is that there is probable cause here to
19 believe that the defendant has committed a crime. And this is
20 not limited to the PPP fraud that is outlined in the letter,
21 but also simple identity theft. I think that's a point that
22 that defense counsel will rise.

23 THE COURT: Ms. Vogel, why don't I hear from you a
24 proffer with respect to the evidence that you believe supports
25 probable cause or creates probable cause that the defendant

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1 committed a federal, state or local crime. Why don't you
2 identify for me what the crime is. I assume that you're asking
3 me to accept your letter of October 8 as part of your proffer,
4 but if there are things that you want to repeat, you can, and
5 then give me as much detail as you are prepared to give me and
6 any supporting evidence you're prepared to provide.

7 MS. VOGEL: Yes, your Honor. So largely we're relying
8 on our letter. I think much of what I have to say is captured
9 in the letter. I can provide some clarification now and some
10 highlights, but essentially a search was conducted today
11 pursuant to a search warrant of Mr. Ilori's person. A search
12 was also conducted of his vehicle pursuant to the automobile
13 exception. Identification cards and bank cards were recovered
14 both from his person and from the vehicle. There are three
15 different identities that are highlighted in the letter that
16 were recovered from his person/from his car, but there are at
17 least two identification cards and numerous bank cards in these
18 individuals' names and also other individuals' names. The
19 three in the letter are just three that we highlighted.

20 So I think the fact that the identity and bank cards
21 in other individuals' names were recovered on his person is
22 enough, frankly, to satisfy that the defendant has committed
23 identity theft. In addition, law enforcement has confirmed the
24 identities that are highlighted as Victim-1, 2 and 3, which
25 were found on the identities and cards recovered from his

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1 person in the car, are in fact real people, although the IDs
2 are fraudulent.

3 THE COURT: Has law enforcement spoken to those people
4 or is there evidence that those people did not authorize the
5 defendant to have or use their cards?

6 MS. VOGEL: Just one moment, please.

7 (Pause)

8 MS. VOGEL: Your Honor, the law enforcement agents
9 have not interviewed those individuals, but the identification
10 cards, agents have confirmed have the photo not of the identity
11 theft victim; instead, it's the photograph of another
12 individual who was arrested separately, as described in the
13 letter.

14 THE COURT: Is that Mr. Recamier?

15 MS. VOGEL: Correct. So that's the main thing. The
16 first thing is the IDs recovered from the defendant, from his
17 person and from his car.

18 Specifically as to one of those debit cards, on
19 September 22nd, 2021, so recently, the defendant was observed
20 entering a coffee shop in Manhattan, purchasing coffee using a
21 debit card in the name of a person we identified as Victim-2.
22 That Victim-2 identity is the same identity that was used
23 numerous times in the PPP loan fraud.

24 THE COURT: That's the crime with which the defendant
25 pled guilty in the case in front of me, or no?

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1 MS. VOGEL: No, when I'm referring to the PPP loan
2 fraud, this is a separate investigation being conducted by my
3 colleague. But I will point out that just as these identities
4 found have the photo of Mr. Recamier that we recovered, at
5 least one of the identities in the case to which Mr. Ilori has
6 pled guilty also had a photograph with an identity of another
7 person. So essentially it's the same play, to put it very
8 colloquially.

9 THE COURT: In the case in front of me, is the photo
10 that was used with somebody else's name the photo of
11 Mr. Recamier?

12 MS. VOGEL: Yes, we have now put that together, given
13 this other investigation.

14 THE COURT: And Mr. Recamier's photo was also used
15 with a name other than Mr. Recamier's name in connection with a
16 card that Mr. Ilori possessed, is that right?

17 MS. VOGEL: That's correct.

18 THE COURT: And how do you know, Ms. Vogel, that the
19 defendant used a card at the coffee shop in the name of
20 Victim-2?

21 MS. VOGEL: So your Honor, agents were conducting
22 physical surveillance of Mr. Ilori at that time. He was under
23 investigation in connection with the PPP loan scam. And so
24 they observed him go into the coffee shop and purchase the
25 coffee and then obtained video surveillance footage from the

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1 coffee shop and also interviewed the person at the coffee shop
2 and determined that he used this credit card in Victim-2's name
3 to purchase the coffee.

4 THE COURT: So I take it that's from the interview or
5 from the video?

6 MS. VOGEL: It's both.

7 And law enforcement provided a subpoena to the coffee
8 shop and provided documentation of the purchase, and the timing
9 on the record of the purchase matches the time that Mr. Ilori
10 was in the coffee shop making a purchase.

11 THE COURT: And I gather the documents reflect the use
12 of the debit card in the name of Victim-2.

13 MS. VOGEL: Correct. And either an identification can
14 card or a bank card in the name of Victim-2 was recovered today
15 from Mr. Ilori's person or his car.

16 I would also like to highlight that when Mr. Recamier
17 was arrested last night, he made a number of post-arrest
18 Mirandized statements implicating Mr. Ilori, including that
19 Mr. Recamier and Mr. Ilori were engaged in fraudulently
20 applying for Covid-19 relief, the loans, that's what I'm
21 referring to as the PPP loans, that Mr. Ilori manipulated a
22 bank statement submitted as part of a fraudulent loan
23 application in the case in which Mr. Ilori has already pled
24 guilty as well as in the PPP loan scheme.

25 And in fact, in connection with that, we have compared

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1 one of the bank statements that Mr. Ilori submitted in the case
2 in which he's pled guilty, one of the fraudulent loan
3 applications. That bank statement is identical to one of the
4 bank statements that was submitted in the PPP loan fraud except
5 that the company name and the account number on the statement
6 was changed.

7 But all the financial --

8 THE COURT: Would you say that again for me? Maybe go
9 slowly.

10 MS. VOGEL: Yes. So in the case in which Mr. Ilori
11 pled guilty, he and Mr. Chancey submitted a number of
12 fraudulent loan applications. Those applications included bank
13 statements. So we have those bank statements. For an
14 application that we have attributed to Mr. Ilori, because his
15 fingerprints are on it and also because of the recorded
16 conversation, the context, it's clear the application was
17 submitted by Mr. Ilori as opposed to Mr. Chancey, or prepared
18 by Mr. Ilori, I should say. It also uses the photograph of
19 Mr. Recamier on the ID.

20 That bank statement submitted in connection with our
21 case is identical to the bank statement submitted in support of
22 one of these fraudulent PPP loans, meaning the dates of the
23 transactions, the descriptions of the transactions, the dollar
24 amounts on the bank statements are all identical. They line
25 up. It's clearly the same statement except that the account

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1 holder name, the company name as the account holder, is
2 different, as well as the account number on the statement.

3 If that's clear, your Honor.

4 THE COURT: I understand.

5 MS. VOGEL: So this is consistent with the post-arrest
6 statement made by Mr. Recamier where he explains --

7 THE COURT: Corroborates it?

8 MS. VOGEL: Correct.

9 THE COURT: I cut off where he explains --

10 MS. VOGEL: No, correct, your Honor, I was reiterating
11 that he stated that Mr. Ilori had manipulated a bank statement
12 in connection with both cases. And the other evidence we have
13 that I just described corroborates that.

14 Mr. Recamier also stated as part of his post-arrest
15 that Ilori has maintained, over the course their time scheming
16 together, approximately 15 to 20 identity cards that he
17 typically keeps with him. And in fact, that is also
18 corroborated because today when the agents executed the search
19 on Mr. Ilori's person and his vehicle, they recovered, as I
20 said, a number of identities and bank cards in other person's
21 names, including identification for the victim in the PPP loan
22 fraud.

23 Those are the two really -- the post-arrest statements
24 corroborated by other evidence plus the identifications found
25 on Mr. Ilori are I think the strongest pieces of evidence in

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1 support of probable cause that Mr. Ilori has committed a crime
2 and that bail should be revoked.

3 If you could give me one moment, your Honor.

4 (Pause)

5 THE COURT: And the crime would be identity theft in
6 violation of 18 USC 1028?

7 MS. VOGEL: That's correct, as well as state and local
8 crimes, your Honor. I don't have a specific statute in front
9 of me, but there are certainly a number of state and local
10 statutes that prohibit identity theft.

11 In support of the identity theft as well, while
12 conducting physical surveillance recently, as recent as
13 October 7, law enforcement observed the defendant driving a new
14 vehicle, a particular Mercedes. And law enforcement has
15 obtained records and learned that the vehicle was leased by
16 Mr. Recamier using this Victim-3's identity, and the identity
17 used to lease the Mercedes was recovered from Mr. Ilori today.
18 So essentially Mr. Ilori possessed the identification that was
19 used to fraudulently lease this car.

20 I would also like to point out law enforcement in the
21 PPP loan fraud investigation yesterday evening executed a
22 search warrant at an apartment in Long Island City. It was at
23 that time that Mr. Recamier was arrested. This apartment was
24 leased under a false name, a stolen identity. Mr. Recamier and
25 Mr. Ilori were observed over the recent past going to this

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1 apartment together and spending time there. IP addresses that
2 come back to that apartment were used to access accounts,
3 financial accounts that received the proceeds from the PPP loan
4 fraud. Approximately one million dollars was successfully
5 obtained in loans, in PPP loans, and there was about another
6 7 million that was applied for. And again, most of these loan
7 applications were done in the name of Victim-2, and that
8 identity was recovered from the defendant today. And the key
9 to this Long Island City apartment was recovered from Mr. Ilori
10 today as well.

11 I will also note, just in terms of the overlap to show
12 Mr. Recamier and Mr. Ilori had been working together, in
13 addition to the fact that Mr. Recamier's photo was on the IDs
14 recovered in our case, in the case to which he pled guilty, we
15 also, as part of our investigation previously, obtained bank
16 surveillance video for one of the bank accounts at issue in our
17 loan fraud scheme that we prosecuted previously, and
18 Mr. Recamier is observed on the video conducting a transaction
19 with that bank account. So that was one of the bank accounts
20 that received fraudulent loan proceeds in the case in which
21 Mr. Ilori pled guilty.

22 I would also like to point out separately that
23 yesterday counsel did ask for an adjournment of Mr. Ilori's
24 sentencing, purportedly because Mr. Ilori's mother-in-law, who
25 lives with him, tested positive for Covid, and thus, Mr. Ilori

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1 needed to quarantine. However, Mr. Ilori was spotted yesterday
2 in Long Island City when the agents were conducting physical
3 surveillance near the apartment that I discussed.

4 They also had a warrant for location information for
5 his cellphone, and that cellphone was coming up in Astoria,
6 which is not where Mr. Ilori lives, as of yesterday. And of
7 course today Mr. Ilori left his home, and that's how the agents
8 conducted their search after he left his home.

9 So I think it raises questions about -- and certainly
10 I'm not raising anything as to counsel, but just in terms of
11 Mr. Ilori presenting as a reason to delay his sentencing
12 because of Covid, I think there's real questions about whether
13 that was true. And today the agents asked him if there were
14 any medical concerns in terms of transporting him, and he did
15 not mention anything about the Covid exposure concern.

16 And just in connection with the phone number, that
17 they obtained a warrant for location information from
18 Mr. Ilori's phone number, this phone number is the same phone
19 number that was listed on the PPP fraudulent loan applications.

20 THE COURT: Say that again?

21 MS. VOGEL: So the fraudulent PPP loan applications
22 listed a phone number, and it turns out that this is
23 Mr. Ilori's phone number. And that's essentially how --

24 Sorry, one moment, your Honor.

25 (Pause)

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1 MS. VOGEL: To be clear, your Honor, this phone number
2 is not necessarily in Mr. Ilori's name. We tied the phone
3 number to him because we observed that he possesses the phone.

4 And essentially --

5 THE COURT: I was going to say it's not all that
6 sophisticated.

7 MS. VOGEL: No. No, essentially this was a phone
8 number listed on the fraudulent PPP loan applications. Law
9 enforcement obtained a warrant for location information for
10 that cellphone, and to their surprise, it led to Mr. Ilori.
11 That was initially how law enforcement learned that Mr. Ilori
12 may be involved in the PPP loan fraud.

13 They began conducting surveillance of the individual
14 holding this phone, and they found it was Mr. Ilori who was
15 possessing the phone, and that the phone at night, overnight --
16 presumably Mr. Ilori was sleeping -- was located at Mr. Ilori's
17 residence. So that's initially how law enforcement came to him
18 and it's also another thing that ties him to the PPP loan
19 fraud.

20 So taking all of this information together, the
21 government's view is that there's more than enough probable
22 cause to believe that Ilori at a minimum has committed identity
23 theft while on pretrial supervision for this case, and, in
24 addition, that he's involved in the PPP loan fraud. And that
25 because he was involved in this activity during his pretrial

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1 release, and given his criminal history as well -- he has a
2 number of criminal convictions from 15 to 20 years ago for
3 similar conduct -- that there are no conditions or combination
4 of conditions that will ensure the safety of the community, and
5 as well as that he's unlikely to abide by any conditions of
6 release as well. He's clearly demonstrated that.

7 So unless the Court has questions --

8 THE COURT: I do have one question.

9 MS. VOGEL: Yes.

10 THE COURT: On the case in front of me, the underlying
11 case in front of me, there was evidence with respect to one of
12 the three defendants having been arrested and then being
13 released on bail and then continuing to engage in criminal
14 activity with Mr. Chancey. Was that Mr. Ilori or was that --

15 MS. VOGEL: That is Mr. Ilori. He still has a pending
16 state case from an arrest in late June of 2019, that arrest was
17 conducted by NYPD, and already by that time this conspiracy had
18 started. There are numerous recordings of meetings and calls
19 that predate that June arrest.

20 Mr. Ilori was eventually bailed in the state in
21 November of 2019 because of a change in state law about bail,
22 and he was released, and at that point resumed meeting with
23 Mr. Chancey and the confidential source and continued the
24 scheme and thereafter submitted the fraudulent loan
25 applications. And that case remains pending.

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1 THE COURT: Thank you. I don't have any other
2 questions at the moment.

3 Ms. Cucinella, how do you want to proceed? Do you
4 want to put on evidence, do you want to argue? Tell me what
5 your pleasure is.

6 MS. CUCINELLA: I think we should argue and ultimately
7 we are going to have to put on evidence.

8 I just want to break down for a moment, of all of the
9 facts -- and there was a litany of things that Ms. Vogel went
10 through -- there was actually very little information here that
11 ties directly to Mr. Ilori.

12 When he was stopped this morning by the police
13 officers, Mr. Ilori vigorously disputes that IDs were found on
14 his person other than his own. He has represented that the IDs
15 that were found were in the car that they searched after
16 presenting him with a search warrant which was limited to his
17 person. Following that, when they went in the car, they found
18 a number of other IDs.

19 One thing that Ms. Vogel --

20 THE COURT: Whose car was it?

21 MS. CUCINELLA: It's Recamier's, the individual who --
22 I will posit that all of the information that Ms. Vogel just
23 laid out makes a very strong case against Mr. Recamier.

24 THE COURT: What was your client doing in the car?

25 MS. CUCINELLA: He borrowed the car. Mr. Recamier is

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1 a friend of his, he trains him, but it is Mr. Recamier's car.

2 When he got coffee --

3 THE COURT: Mr. Recamier must be a very good friend of
4 the defendant if he trusts the defendant to drive a car that
5 has a whole bunch of stolen IDs in it.

6 MS. CUCINELLA: Your Honor, to extent that they have a
7 connection between the last case where my client has pled
8 guilty and accepted responsibility and is attempting to move
9 on, Mr. Recamier, when he was arrested with all of these IDs,
10 is naturally pointing the finger at my client. So that is also
11 very much an explanation for why this is transpiring the way it
12 is.

13 So going back to what Ms. Vogel has actually tied to
14 my client, he was walking out to a car that he borrowed from
15 Mr. Recamier, the IDs were in Mr. Recamier's car. Other than
16 that, there is a phone number that Mr. Recamier submitted, and
17 I believe they have surveillance of Mr. Recamier submitting
18 these loans, and the phone number ties back to my client's
19 cellphone. There's nothing that shows that my client is
20 necessarily tied to those loan applications or to those
21 accounts.

22 The IP address that she referenced --

23 THE COURT: But his cellphone number is on the loan
24 applications.

25 MS. CUCINELLA: So the cellphone that they say he

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1 carries, but there's nothing that indicates he put that there.
2 Mr. Recamier clearly knows him, they are clearly close, and he
3 knows that he has a prior conviction for this that he pled
4 guilty to.

5 The government was able to show that the IPs go back
6 to Mr. Recamier's apartment. And yes, Mr. Ilori is friends
7 with him and has been over there, but there is nothing that
8 indicates here that Mr. Ilori was involved in this PPP scheme
9 in any way that is separate and apart from Mr. Recamier, other
10 than last night Mr. Recamier saying that it was Mr. Ilori.

11 So separate and apart from that --

12 One moment, your Honor.

13 (Pause)

14 MS. CUCINELLA: With respect to the IDs, I'm also
15 informed that my client says they were in the trunk of the car.
16 So the IDs that were recovered from the car. And I think it's
17 very convenient, with all due respect to Ms. Vogel, that the
18 way she presented it, she very much blurred the idea of where
19 these IDs were found, whether they were on the person or in the
20 trunk.

21 So going back to the facts that actually relate to my
22 client being involved in this, we have him buying a coffee on
23 September 22nd with an ID or with a debit card that purportedly
24 wasn't his. He very clearly could have borrowed that from a
25 friend. It's possible. I don't know the reason why he had

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1 that in his possession. But we're here today saying that he
2 should spend a long weekend in jail before we sort all this out
3 based on the fact that he bought a coffee with an ATM card that
4 isn't his and that he is friends with this Recamier character,
5 who is clearly trying to point the figure at him.

6 So your Honor, I'm not in a position at this point to
7 put forward evidence, but if you really look at what the
8 government has -- I will also note they arrested this man last
9 night, they had a statement last night, they had a search
10 warrant for his person, they didn't get a search warrant for
11 Recamier's car. The IDs that are at issue here seem to have
12 been pulled from that trunk. That's troubling in and of
13 itself. Obviously I have to learn more before we go down that
14 path, but it just seems a little odd to me that this is the way
15 that they went about this. If they have been surveilling him
16 for months, he's been out on bail, they know his sentencing is
17 coming up on Wednesday, and they spring this on us on a Friday
18 before a long weekend where he is likely to have to spend the
19 weekend in jail.

20 Mr. Ilori has three children at home, 16, 12 and 7.
21 He takes them to school every morning, which he does. His
22 mother-in-law lives with him. Yes, she tested positive for
23 Covid on October 5. Mr. Ilori learned yesterday that since he
24 has already had Covid, which your Honor may recall earlier this
25 year, he is likely less at risk for Covid going forward. So he

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1 continued to take his children to school today and go about his
2 life.

3 So while all of that is the case, it is a situation
4 here where if we really look at what we have that is pointing
5 toward Mr. Ilori in this case, it is actually incredibly
6 limited, and it's tough to justify keeping a person in prison
7 for three days given all of the complete lack of evidence that
8 directly ties him either to the PPP scheme or necessarily to
9 these IDs.

10 So your Honor, that being said, obviously we would
11 need to present more evidence. We would like to present more
12 evidence. But with respect to Mr. Ilori getting out and going
13 home tonight, he intends -- he has come back throughout this.
14 He has shown up in court. He was out on bail on his other
15 matters. There is no indication that he's not going to come
16 back to this court. He's got three children, he's got a wife.
17 There's zero chance that he's going to flee. He hasn't shown
18 that he's going to do that.

19 I also note in the previous convictions, Ms. Vogel
20 noted herself they were 15 and 20 years ago. That was a long
21 time ago. Obviously he pled guilty in front of your Honor. We
22 put in a sentencing submission recently. In that, he makes
23 very clear that while he was involved in the first group of
24 loans, after that I think it's reflected in the recordings in
25 that case, his role in that scheme was minimal toward the end.

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1 That was a case that involved an FBI sting. We had an
2 informant in that case was that really pushing those guys to
3 get the loans in. So I think that's a little different
4 situation.

5 Clearly, Mr. Ilori has terrible taste in the people he
6 associates with. And Mr. Recamier, there's a lot of evidence
7 against him. The evidence that Ms. Vogel has presented today
8 is not actually tied to Mr. Ilori. Maybe the government
9 ultimately will be able to make that case, but it's not
10 evidence that they have been able to create or to present today
11 that amounts to probable cause other than him buying a coffee
12 on September 22nd.

13 THE COURT: How do you address Mr. Recamier being the
14 person who showed up at the bank, in connection with the case
15 in front of me, to use the bank account that had the fraudulent
16 proceeds in it that your client helped set up?

17 MS. CUCINELLA: My client was definitely involved in
18 the previous scheme. He pled guilty to that scheme. And he
19 knew -- I don't know about Mr. Recamier's role in that, this is
20 the first I'm hearing of that from the government today, so I
21 can't respond to that.

22 My client did not go to the bank in connection with
23 that scheme. My client was not there when Mr. Recamier, if he
24 did go to the bank, went to the bank. Mr. Chancey was, by all
25 means, the ringleader of that. I would argue that the FBI

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1 informant was the ringleader of that, but Mr. Chancey was
2 really much more of a leader than Mr. Ilori was.

3 So to the extent that Mr. Recamier played some role in
4 that, again, it goes to the central problem here, that the
5 evidence that's being presented is all against Mr. Recamier,
6 it's not actually involving Mr. Ilori.

7 THE COURT: Thank you very much.

8 Anything further, Ms. Vogel?

9 MS. VOGEL: Just a few points. The agents absolutely
10 did find a combination of identification cards and debit cards.
11 I don't know exactly which were on Mr. Ilori's person in
12 addition to the car. That is absolutely correct.

13 I also want to point out that in the prior case, the
14 case in which Mr. Ilori pled guilty, there is a recorded
15 conversation in which Mr. Chancey, the confidential source, and
16 Mr. Ilori discuss that Mr. Ilori had a white guy, they did not
17 name him, who was basically acting as a shield for them to open
18 and access these bank accounts they were going to use in the
19 scheme, and that Mr. Ilori had met this person in jail.

20 We believe that the person they were referring to is
21 Mr. Recamier, given what we know now. We have learned that
22 Mr. Recamier was in jail in 2019 in Rikers. I don't
23 specifically have in front of me at this moment if the dates
24 line up perfectly when Ilori was detained in his state case,
25 arrested the summer of 2019, but I think that's a reason to

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1 believe that they were working together previously and were
2 working together again more recently.

3 THE COURT: Ms. Cucinella, I see you standing up. I'm
4 not going to rely upon that last bit of evidence. It may be
5 firmed up at a later point in time and may not be, but it seems
6 to me it's speculative at this point.

7 I will hear from you in a moment, but let me hear from
8 Ms. Vogel.

9 MS. VOGEL: Also as to the prior convictions, although
10 they are from a number of years ago, it is very, very similar
11 conduct. In all those cases, Mr. Ilori was found with bank
12 cards or identifications of other individuals attempting to
13 make purchases. In one of those cases as well, Mr. Ilori was
14 found in a car rented or leased in another person's identity as
15 well. So I think the Court can take that into account along
16 with all the other facts that we presented.

17 Unless the Court has other questions, I don't have
18 anything else.

19 THE COURT: I don't.

20 Ms. Cucinella?

21 MS. CUCINELLA: Your Honor, two quick points. With
22 respect to Recamier's involvement in the prior scheme, to be
23 clear, Mr. Ilori has pled guilty to that and he is going to be
24 sentenced for that crime. That is fully separate. He has
25 taken his responsibility for that, or he will be shortly.

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1 Second, with respect to the similar conduct from 15 to
2 20 years ago, that's not something -- the idea that he, 20
3 years ago, was arrested in a car and had fake IDs and that in
4 some way should bear on this issue today, I think -- well, I
5 will say that I find that is not something that I hope the
6 Court relies on.

7 Nothing else, your Honor.

8 THE COURT: Okay, thank you.

9 Give me one moment.

10 (Pause)

11 THE COURT: I'm prepared to rule. I'm going to revoke
12 Mr. Ilori's bail. I rely upon the standards set forth in 18
13 USC 3148(b). The first question is whether there's probable
14 cause to believe that Mr. Ilori committed a federal, state or
15 local crime while on release. I'm permitted to rely upon a
16 proffer of evidence from the government, but I'm cautioned by
17 the Second Circuit to probe the proffers and to make sure that
18 they're backed up by evidence, and I have done so.

19 I believe that there's ample probable cause on the
20 record in front of me. It consists, in part, of the statement
21 of Mr. Recamier last night, which was corroborated, which in
22 and of itself establishes probable cause to believe that the
23 defendant has committed the crime of identity theft under
24 federal law and under state law. It's well-established law
25 that courts can find probable cause on the basis of the

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1 statement of a co-conspirator that is corroborated. But here
2 the evidence is not just limited to the corroborated statement
3 of Mr. Recamier, it's also based on the evidence that the
4 defendant used a debit card that was not his on September 22nd,
5 2021, to buy coffee. While the coffee may not be a big deal,
6 the use of somebody else's debit card or a debit card in the
7 name of somebody else is a big deal.

8 It also consists of the fact that there were debit
9 cards in the names of persons other than Mr. Ilori or
10 Mr. Recamier and with pictures of persons other than the
11 persons whose name appeared on the card that were found both on
12 the defendant's person and in the car that he was driving.

13 I note in that respect that on this record I need to
14 credit -- because there's no testimony that contradicts it, I
15 do credit the statement that the debit cards were found on his
16 person. But even if I didn't credit that and the cards were
17 just in a car that the defendant was entrusted with driving,
18 that in and of itself would provide some evidence of probable
19 cause. And the probable cause also is supported by
20 Mr. Recamier's involvement in the prior fraud scheme that is
21 the case in front of me. So I think that there's ample
22 probable cause to believe that the defendant is guilty of a
23 federal or state crime involving identity theft.

24 The second question is whether there are conditions or
25 a combination of conditions that would reasonably assure that

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1 the defendant did not pose a danger to the safety of another
2 person or the community under 18 USC 3148. If there's probable
3 cause to believe that while on release the defendant committed
4 a federal or state felony, there is a rebuttable presumption
5 that arises that no condition or combination of conditions will
6 assure that the defendant does not pose a danger to the safety
7 of any other person or the community.

8 Even without that presumption -- first of all, that
9 presumption has not been rebutted in this case. There's no
10 evidence that is convincing that rebuts that presumption. The
11 only evidence that has been presented to me is really that
12 he -- other than the evidence that I have heard today about him
13 committing a crime on bail, has not committed other crimes
14 while on bail and that he's got a family and he's got an
15 incentive to comply with his conditions, but that's not enough
16 to rebut the presumption.

17 And even if there wasn't a presumption, the evidence
18 with respect to the fraud here, the similarity of this fraud to
19 fraud in front of me, the evidence of the defendant's criminal
20 history, the fact that the defendant committed the crime in
21 front of me to which he pled guilty while on bail from his
22 state crime, all of that, and frankly each individual piece of
23 it, would support that by the requisite preponderance that
24 there is no condition or combination of conditions that would
25 assure reasonably the safety of the community. So the

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1 defendant is remanded to the custody of the marshals.

2 Having said that, I guess the next question is where
3 we proceed from here. Sentencing is scheduled for Wednesday.
4 There's a lot that the parties have presented me with today,
5 and I don't know the position of the parties, but I'm not a
6 hundred percent comfortable proceeding with a sentencing on
7 Wednesday given the evidence that's been presented and
8 Ms. Cucinella's objection to that evidence, and forceful
9 objection to it, and giving her the opportunity to prepare
10 whatever sentencing submission she would like to prepare in
11 light of what the government has now put in my head.

12 I guess I will hear from you, Ms. Cucinella.

13 MS. CUCINELLA: Thank you, Judge.

14 Yes, obviously the arguments today were based on a
15 conversation with my client, so I do think it's important that
16 we delay the sentencing for -- I would ask for at least a few
17 weeks and potentially a month so that we can look into this
18 and, if necessary, make additional applications to the Court.

19 THE COURT: What is the government's position?

20 MS. VOGEL: No objection to that, your Honor.

21 THE COURT: I think, Ms. Cucinella, that's wise. It
22 gives you an opportunity to prepare and to see if there are
23 things that should be brought to my attention that, based on
24 the short period of time, you have not had an opportunity to
25 bring to my attention.

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1 Let me look at the calendar. A month seems to me to
2 be reasonable. How about November 8 at 11:00 a.m. Does that
3 work for you, Ms. Cucinella?

4 MS. CUCINELLA: I don't have my phone on me, but I
5 will say yes, and if it doesn't, I'll write to the Court.

6 THE COURT: Ms. Vogel?

7 MS. VOGEL: Yes, your Honor.

8 THE COURT: So sentencing is adjourned to November 8
9 at 11:00 a.m. The defendant is remanded to the custody of the
10 marshals and the Bureau of Prisons. The bail is revoked.

11 Anything further from the government?

12 MS. VOGEL: No, thank you, your Honor.

13 THE COURT: Ms. Cucinella?

14 MS. CUCINELLA: No, your Honor, thank you.

15 THE COURT: Thank you both.

16 (Adjourned)

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