The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, Plaintiff, v. ERIC SHIBLEY, Defendant.	NO. MJ 20-385-MLP **MEMORANDUM REGARDING BOND VIOLATION HEARING**

The government hereby files the following Memorandum Regarding Bond Violation Hearing, scheduled for Monday, September 28, at 9am. It is alleged that the Defendant Eric Shibley violated the conditions of his release: 1) by committing the crime of assault on or about September 12, 2020; and 2) by committing the crime of assault on or about September 15, 2020.

I. Legal standard applicable to bond violation hearing

Violations of conditions of release are governed by the provisions in 18 U.S.C. § 3148. That section describes the standards of proof for the types of typical bond violations. For the violation alleged here, a new crime, the statute states that the Court may revoke release and order detention if the Court finds "probable cause to believe that

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the person has committed a Federal, State, or local crime while on release …" 18 U.S.C. § 3148(b)(1)(A) (emphasis added).

The Rules of Evidence do not apply to bond hearings like this one. *See* Fed. R. Evid. 1101(d) (evidence rules do not apply when "considering whether to release on bail or otherwise). Likewise, the Sixth Amendment Confrontation Clause applies to "criminal prosecutions" and it does not apply to hearings under the Bail Reform Act. *See United States v. Bibbs*, 488 F.Supp.2d 925, 925-26 (N.D. Cal. 2007)

II. Evidence supporting new law violations

At the hearing, the government will present the testimony of Seattle Police Department Officer Jeremy Montgomery. Officer Montgomery responded to both of the domestic violence incidents between Mr. Shibley and the victim in this case. The government will offer exhibits including Officer Montgomery's police reports and photographs.

III. Release on conditions or detention

If the Court finds probable cause to believe that Mr. Shibley committed a new crime and the Court finds that there are no conditions of release that will ensure that he will not pose a danger to the safety of any other person or the community, Mr. Shibley should be detained. *See* 18 U.S.C. § 3148(b).

The government has multiple concerns about the release of Mr. Shibley. First, to the government's knowledge, he does not have a suitable residence, apart from the victim, that has been cleared with the Probation Office.

Second, while Mr. Shibley seeks release under pretrial supervision, he has not been candid with the Probation Officer about his relationship with the victim. The victim has been residing at Mr. Shibley's residence for months and has an intimate relationship with Mr. Shibley. Still, Mr. Shibley told his Probation Officer that the victim is merely an acquaintance. *See* Memorandum, Dkt. #15 at 2.

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Third, the record in this case shows that Mr. Shibley is a danger to the victim and he should be detained.

DATED this 25th day of September, 2020.

Respectfully submitted,

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