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January 29, 2023

Honorable Matthew J. Maddox
United States Magistrate Judge
United States District Court
for the District of Maryland
101 W. Lombard St.
Baltimore, MD 21201

Re: *United States v. Ryan E. Dales*, Criminal No. GLR-23-26 (23-mj-190-BAH)
United States v. Ryan E. Dales, Criminal GLR-17-0060

Dear Judge Maddox:

We write on behalf of the government in the above-referenced matters in advance of the detention hearing of Defendant Ryan Dales set for January 30, 2023 at 11:30 a.m.

On January 23, 2023, Defendant had an Initial Appearance on a Criminal Complaint filed in 23-mj-190-BAH (the "Complaint") and an Initial Appearance on a Petition on Supervised Release in *United States v. Ryan Dales*, GLR-17-0060 (the "VOSR Matter"); a detention hearing was scheduled.

For the reasons that follow, Defendant should be detained.

BACKGROUND

Defendant is currently charged in a two Count indictment alleging violations of 18 U.S.C. § 922(g)(1) (Felon in possession of a Firearm) and 18 U.S.C. § 1343 (Wire Fraud).

The charges in this case arise out of Defendant's submission of fraudulent unemployment insurance (UI) benefit claims while living in a half-way house serving a federal sentence in connection with a November 2017 federal conviction in the District of Maryland for Bank Fraud Conspiracy in violation of 18 U.S.C. § 1349 (Count One) and Aggravated Identity Theft in violation of 18 U.S.C. § 1028A(a)(1) (Count Five), *see United States v. Ryan Dales*, GLR-17-0060, and his possession a firearm located during a search of Defendant's residence on January 20, 2023.

The VOSR matter involved Defendant's use of the personal identity information (PII) of various victims to obtain counterfeit identification cards such "as driver's licenses or state-issued identifications, using the victim's PII but the picture of the Defendant or a co-conspirator." Crim. No. GLR-17-0060, ECF No. 37 (Plea Agreement) at 9. Thereafter, "Defendant and/or his co-conspirator then traveled to a retail store which offered customers 'instant credit' if approved for a store-branded credit card. These credit cards were, in fact, issued by financial institutions, which extended credit for purchases made using these cards." *Id.* Defendant and his co-conspirators

received actual extensions of credit of approximately $241,852 in connection with their scheme. *Id.*

On May 3, 2019, Defendant was sentenced to 38 months' imprisonment as to Count One and 24 months' imprisonment, consecutive, as to Count Five and, again, was still serving this sentence at the time of the fraud conduct at issue in this case.

Here, Defendant submitted fraudulent claims for UI benefits that were supported by a fake and fraudulent IRS Form, which indicated that Defendant was the sole member of a business that made nearly $100,000 profits in 2019, during a time frame when Defendant was still in the custody of the federal Bureau of Prisons. The business, in fact, was non-existent, and the IRS has confirmed that it has no record of any such form being filed by Defendant or the purported business. Defendant ultimately received more than $25,000 as a result of his fraudulent UI claims.

On January 20, 2023, Defendant was arrested and, that same day, search warrants were executed at Defendant's residence located within a luxury apartment building in the Locust Point area of Baltimore City where the rent was over $3,000 a month.[1]

During the execution of the search warrants, law enforcement located and seized, among other things:

- two loaded firearms, one which was stolen and one which was a privately-made "ghost gun" Polymer80 firearm with no serial number;
- numerous packages of suspected controlled dangerous substances—including suspected fentanyl;[2]
- multiple digital scales; sifters, empty capsules, drug packing materials, and suspected cutting agents;
- six cell phones;
- multiple computers;
- an embosser and ID card printer;
- laminate sheets with security holograms;
- gift cards in various denominations;
- bulk packages of shrink-wrapped white PVC cards; and
- three purported South Carolina identification cards containing PII of individuals but Defendant's photograph.

One of the recovered firearms forms the basis of Count One of the Indictment. The Government's investigation is ongoing.

[1] Defendant did not tell his supervising officer from United States Probation that he resided at this address. Records from the management company of the luxury apartment building show that on or about January 22, 2022, Defendant signed a one year lease for a two-bedroom, two-bathroom apartment with monthly rent due of $3,064. As of December 2022, Defendant was four months delinquent in his rent.

[2] During a post-*Miranda* interview after his arrest, Defendant told law enforcement that at least some of the CDS in his apartment was probably fentanyl.

APPLICABLE LAW

In light of the pending VOSR Matter, Fed. R. Crim. P. 32.1(a)(6) applies. *See* Fed. R. Crim. P. 46(d). Fed. R. Crim. P. 32.1(a)(6) provides that the court release or detain a person pending revocation, as here, under 18 U.S.C. § 3143(a), the provision addressing release or detention pending sentencing. *See, e.g.*, *United States v. Porter*, No. 03-CR-0129 CPS, 2007 WL 3232502, at *5 (E.D.N.Y. Nov. 1, 2007) ("[W]hen deciding whether to detain a defendant pending a hearing for the revocation of supervised release, courts have determined the person's eligibility for release under the standards ... set forth in 18 U.S.C. § 3143, equating the probationer's situation to that of a defendant convicted and awaiting imposition of sentence.") (citations an internal quotation marks omitted).

18 U.S.C. § 3143(a), in turn, places the burden on Defendant to establish "by clear and convincing evidence that [he] is not likely to flee or pose a danger to the safety of any other person or the community."

"Although the court is not required to consider the factors set out in 18 U.S.C. § 3142(g) in [the 3143(a)(1)] context, some courts have found those pretrial detention factors helpful to the analysis." *United States v. Wills*, No. 19-40013-03-DDC, 2020 WL 1873622, at *2 (D. Kan. Apr. 15, 2020) (collecting authority); *see also United States v. Chase*, No. CR JKB-19-0473, 2020 WL 2319132, at *3 (D. Md. May 11, 2020) (applying § 3142(g) factors to evaluate a defendant's danger to the community under § 3143(a)(1)).

The 18 U.S.C. § 3142(g) factors include "(1) the nature and circumstances of the offense charged . . . ; (2) the weight of the evidence against the person; (3) the history and characteristics of the person . . . ; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release."

ARGUMENT

An analysis the Section 3142(g) factors weighs heavily in favor of detention on the basis of both danger and risk of flight. Defendant cannot meet his burden.

A. Nature And Circumstances Of The Offense And Weight Of The Evidence.

To begin, the nature and circumstances of the offense are unquestionably serious. Before he had even finished serving a sentence stemming from a 2017 fraud and aggravated identity theft conviction, Defendant once again began committing criminal activity. He engaged in a scheme to obtain UI benefits through fraud—taking advantage of a program meant to help support individuals who had been hit hard by the COVID-19 pandemic. And he used at least one fake IRS document—a fraudulent Schedule C—in his connection with the scheme. Other counterfeit identifications cards and the tools to make such cards, among other things, were found within his apartment. The use and possession of fake documents is of course an aggravating factor with respect to the charged crimes. But a facility with the creation of fake documents also facilitates flight from justice. What's more, not only did Defendant possess the means to create fake identity documents (and in fact possess such documents), he also possessed multiple firearms—one of which was stolen and one of which was a "ghost gun" with no serial number—apparently in connection with his illegal business selling drugs.

As for the weight of the evidence against Defendant, it is overwhelming. Among other things, the fraudulent UI claim was made in Defendant's own name, and all of the fraudulently-obtained funds flowed into a Wells Fargo Account in his name too. An email account subscribed to Defendant and used by him engaged in multiple communications with the Maryland Department

of Labor about the UI claim. And the IP address associated with the claim came back to the half-way house where Defendant was residing at the time. Regarding the charged firearm, it was found in a shoebox within Defendant's bathroom shortly after his arrest. Defendant, who lived alone, would later admit in a post-*Miranda* interview that the firearms found in the apartment were "with him."

It goes without saying that Defendant faces a lengthy period of incarceration if convicted of the crimes alleged in the Petition and charged in the Indictment—which does not even at this point take into the suspected controlled dangerous substances found in his apartment or any potential charge under 18 U.S.C. § 924(c).[3] This provides Defendant a strong incentive to flee.

B. History And Characteristics Of The Defendant.

The history and characteristics of Defendant—and particularly his criminal history and his criminal activity while under supervision—also weigh heavily in favor of detention. As noted and as reflected in the Pre-trial Services Report (the "PTS"), Defendant has a past federal conviction for Bank Fraud Conspiracy and Aggravated Identity Theft. PTS at 9. He was sentenced 62 months' imprisonment for his offenses. *Id.*

Defendant likewise has multiple other past convictions involving theft or fraud. He has a 2008 Theft conviction our of Baltimore County. PTS at 3. He was ordered to pay over $18,000 in restitution to AT&T as a result. PSR at 9. Defendant likewise has 2010 conviction out of Baltimore County for Obtain Property By Counterfeit. PTS at 4. That offense involved Defendant's use of stolen identifies—for which he possessed fake identification cards—and the attempted use of fraudulent credit cards to purchase electronics. PSR at 10. Defendant has likewise sustained multiple past drug convictions. He has 2013 conviction out of Anne Arundel County for Possession with Intent to Distribute Heroin. PTS at 5; PSR at 11. He has a 2013 conviction out of Baltimore City for Distribution of Heroin. PTS at 5; PSR at 12. Defendant has also been convicted for repeatedly taking the road in automobiles while under the influence of alcohol. The PSR reflects both a 2016 and a 2017 conviction for driving under the influence of alcohol. PSR at 12-13.

Finally, Defendant has a sustained history of violations of terms of court-ordered supervision, *see* PTS at 3 (2011 – guilty of violation of probation); *id.* at 4 (2013 – guilty of violation of probation), and a history of failures to appear. Defendant's repeated and consistent violations of law—including while on probation or supervised release—provide no basis to believe that Defendant can be trusted to abide by any conditions of release.

C. Nature and Seriousness Of Danger to The Community.

There is no question Defendant poses a danger to the community pursuant to 18 U.S.C. § 3142(g)(4). Defendant's possession of two loaded firearms, including a "ghost gun" and ammunition, along with his apparent operation of a drug trafficking business makes plain the danger Defendant poses to the community if released. Indeed, as noted earlier, Defendant has been convicted of two past drug-related felonies (in addition to other serious felonies). It does not appear that any prior periods of incarceration and court supervision have deterred the defendant from once again engaging in criminal conduct—including nearly immediately after leaving the confines of federal prison.

[3] Defendant was a Criminal History Category VI at the time of his sentencing in connection with his past federal charges, having amassed 15 criminal history points. Pre-sentence Investigation Report, 17 Cr. 60, ECF No. 48 (the "PSR") at 9.

What's more, Defendant poses an economic danger to the community. Indeed, danger under this prong of the inquiry is not limited to physical danger; to the contrary, it can encompass economic danger such as that posed by Defendant here. *See, e.g.*, *United States v. Provenzano*, 605 F.2d 85, 93 (3d Cir. 1979) (in assessing whether release is appropriate, courts "are not confined to considering only harms involving an aura of violence"); *United States v. Reynolds*, 925 F.2d 192, 192-93 (9th Cir. 1992) ("danger may, at least in some cases, encompass pecuniary or economic harm"); *see also United States v. Fomukong*, No. 17-CR-00661-PWG-1, 2020 WL 3073321, at *5 (D. Md. June 10, 2020) ("[T]he Court finds that the defendant would pose a financial danger to the community if released, based on the nature of the offenses and the weight of the evidence against him.") (citing 18 U.S.C. § 3142(g)); *cf. United States v. White*, No. CRIM. PWG-13-0436, 2015 WL 2374229, at *3 (D. Md. May 15, 2015) (rejecting argument that "economic danger is not a basis for detention under 18 U.S.C. § 3142 because 'pretrial detention may not be considered except under the carefully specified circumstances' identified in 18 U.S.C. § 3142(f)(1)").

Defendant poses just such an economic danger. The scheme alleged in the Indictment makes this plain. So too do the various fraudulent identity documents found in Defendant's apartment: among other things, South Carolina driver's licenses with Defendant's photo and the PII of other individuals, along with items used to manufacture fraudulent identification cards, including an embosser, ID card printer, laminate sheets with security holograms and plastic PVC cards.

Of course, further underscoring the danger posed by Defendant is that he was serving his federal fraud sentence at the time of the alleged fraud conduct at issue in this case and was on federal supervised release at the time of his possession of all of the contraband seized from his apartment. Defendant's persistent refusal to comply with the terms of his court-ordered supervision speaks for itself and makes plain the danger he poses to the community were he to be released.

CONCLUSION

For all of the foregoing reasons, Defendant cannot establish by clear and convincing evidence that Defendant is not likely to flee or pose a danger to the safety of any other person or the community were he to be released. Defendant should therefore be detained.

Very truly yours,

Erek L. Barron
United States Attorney

By: _____
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