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Luke Brugnara

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUKE BRUGNARA,

Defendant.

Case No. 24-cr-00277-MMC

**NOTICE OF MOTION AND MOTION
APPEALING STAYED DETENTION
ORDER**

Judge: Hon. Maxine Chesney
Court: 7, 19th Floor
Date: September 18, 2024
Time: 2:15 p.m.

NOTICE OF MOTION

TO THE COURT AND ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on September 18, 2024, at 2:15 p.m., in the Courtroom of the Honorable Maxine Chesney, United States District Court in and for the Northern District of California, San Francisco Division, located at 450 Golden Gate Avenue, Courtroom 7, San Francisco, California, 19th Floor, defendant Luke Brugnara will appeal to this Court the stayed detention order issued by the Honorable Magistrate Judge Lisa Cisneros.

This motion is based on this Notice of Motion and Motion, on the accompanying memorandum, the pleadings and papers filed in this matter, and on other such arguments or evidence as the Court shall deem proper.

1 Luke Brugnara submits this brief in support of his appeal of the Magistrate Court's order
2 revoking pretrial release. ECF No. 44.

3 At the bond hearing held September 5, 2024, the Magistrate Court revoked Mr. Brugnara's
4 pretrial release. Counsel for Mr. Brugnara indicated that the order would be appealed to this Court
5 and the Magistrate therefore stayed its order until this Court could hear the appeal, scheduled for
6 September 18, 2024.

7 The order revoking release was imposed solely on the basis of a single violation of release
8 conditions. ECF No. 40. According to Pretrial Services, Mr. Brugnara violated a condition when, as
9 a passenger in a car, he and the driver stopped at a storage facility on the way to undersigned
10 counsel's office for an attorney-client meeting, as authorized by the Magistrate Court's prior Order
11 Setting Conditions of Release and Appearance Bond. ECF No. 38.

12 Mr. Brugnara respectfully submits that the single alleged violation, which no one claims
13 involved any unlawful conduct, should not be a basis to incarcerate him, especially given his
14 presumption of innocence, presumption of pretrial release, and compliance with the sole purpose of
15 his release conditions: that he appear for court hearings. The single violation does not establish that
16 Mr. Brugnara is unlikely to abide by his conditions going forward.

17 **I. Legal Standard**

18 This Court reviews detention *de novo*, "without deference to the magistrate's ultimate
19 conclusion." *United States v. Koenig*, 912 F.2d 1190, 1193 (9th Cir. 1990). Revocation of pretrial
20 release may be appropriate where the Court concludes that the person violated a condition of release
21 and that "the person is unlikely to abide by any condition or combination of conditions of release."
22 18 U.S.C. § 3148(b). In determining whether a set of conditions exists that will reasonably assure
23 Mr. Brugnara's future appearances, the Court may consider the available information concerning the
24 nature and circumstances of the offense charged, the weight of the evidence, the history and
25 characteristics of Mr. Brugnara, and the record concerning appearance at court proceedings. 18
26 U.S.C. § 3142(g).

II. Background

Mr. Brugnara was released pretrial on August 8, 2024. ECF No. 38. The singular issue animating the pretrial detention proceedings has been whether a set of conditions exists that would reasonably assure Mr. Brugnara's appearance at future court hearings.

On August 23, 2024, Pretrial Services filed a Violation Memorandum alleging that Mr. Brugnara violated a condition of his release by stopping at a storage facility while on his way to an attorney-client meeting at undersigned counsel's office. ECF No. 40. Attorney visits are permissible reasons for him to leave his residence. ECF No. 38. The Magistrate Court held a bond hearing on September 5, 2024, and revoked Mr. Brugnara's pretrial release because of the one stop at the storage facility. ECF No. 44. The Magistrate also stayed the detention order "until [Mr. Brugnara's] appeal of the revocation order can be heard" by this Court. *Id.*

Since his release more than a month ago, Mr. Brugnara has appeared at both hearings in this case, once for a status before this Court on August 14, 2024, and once before the Magistrate Court. ECF No. 44. For the latter hearing, Mr. Brugnara came to court even though he knew that Pretrial Services and the government both sought to have him detained at the hearing.

III. Mr. Brugnara Should Be Permitted to Remain on Pretrial Release

Mr. Brugnara has demonstrated that he is not a flight risk and that a combination of conditions exists that will ensure his appearance at future court proceedings. He has appeared at the hearings held since his release. He generally has complied with the strict release conditions imposed upon him. Those conditions, for example, prohibit him from leaving his small studio (in a single-room occupancy hotel) to exercise or even to go to the grocery store. Despite those restrictions, Pretrial Services has filed only one Revocation Memorandum, which alleged only one violation of the release conditions. ECF No. 40.

That violation does not establish that Mr. Brugnara will not comply with "any condition or combination of conditions of release" going forward. 18 U.S.C. § 3148(b). To the contrary, Mr. Brugnara has been able to abide by his release conditions and, more importantly, has appeared for his court proceedings, which is the only reason the conditions were imposed in the first place.

CONCLUSION

For the reasons stated, Mr. Brugnara respectfully requests that he be permitted to remain on pretrial release.

Dated: September 11, 2024

ILLOVSKY GATES & CALIA LLP

/s/Matthew Dirkes

Matthew Dirkes

Attorney for Defendant

Luke Brugnara