UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Mohamed Jama Ismail,

Defendant.

Case No. 22-cr-124(2) (NEB/TNL)

ORDER

Chelsea A. Walcker, Craig R. Baune, Harry Jacobs, Joseph Scott Teirab, Joseph H. Thompson, and Matthew S. Ebert, Assistant United States Attorneys, United States Attorney's Office, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415 (for the Government); and

Patrick L. Cotter, Sieben & Cotter, PLLC, 105 Hardman Court, Suite 110, South St. Paul, MN 55075 (for Defendant).

This matter is before the Court on Defendant Mohamed Jama Ismail's Unopposed Motion for Reconsideration of Detention and for Release Subject to Conditions, ECF No. 205. The Court finds that the matter is suitable for determination without a hearing and is submitted on the papers.

Under 18 U.S.C. § 3142(f), a detention hearing may be reopened when there is information that was not known at the time of the hearing "that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of [the person detained] . . . and the safety of any other person and the community." Section 3142(f)'s function "is to allow parties to present new information that increases the likelihood a defendant would appear in court or decrease[s] the

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potential danger a defendant poses to an individual or the community as a whole." *United States v. White*, No. 19-cr-204 (ECT/BRT), 2020 U.S. Dist. LEXIS 63741, at *4 (D. Minn. Apr. 1, 2020); *see also United States v. Elburki*, No. 19-00406-01-CR-W-RK, 2022 WL 1307092, at *2 (W.D. Mo. May 2, 2022) ("By its express terms, [§ 3142(f)] applies to reconsideration of a detention order and provides that reconsideration is permissible 'only when there is new information that would materially influence the judgment' concerning potential flight risk and potential harm to any other person or the community." (quoting *United States v. Cisneros*, 328 F.3d 610, 614 (10th Cir. 2003)).

The history of Defendant's pretrial detention and proceedings related thereto is fully set forth orders issued in *United States v. Ismail*, No. 22-cr-85 (NEB/TNL), a case in which Defendant was charged with and ultimately indicted on one count of securing a passport by false statement. *See, e.g.*, ECF Nos. 12 (detention order), 23 (order on objections to detention order) in No. 22-cr-85; *see also* ECF Nos. 1 (criminal complaint), 24 (indictment) in No. 22-cr-85. In brief, Defendant was previously detained based on a finding that there is no condition or combination of conditions that would reasonably assure Defendant's appearance at future court proceedings. Defendant was subsequently sentenced to seven months imprisonment followed by one year of supervised release on the passport charge. *See generally* ECF Nos. 68, 69 in No. 22-cr-85. According to the parties, Defendant has served his sentence on the passport charge. U.S. Probation and Pretrial Services has likewise informed the Court that it is anticipated that Defendant would begin his term of supervised release if afforded release in the instant case.

Defendant's detention in this case was based on his detention in the passport case. *See generally* ECF Nos. 97, 154.

As reflected in Defendant's motion, Defendant and the Government have met and conferred and arrived at proposed conditions of release pursuant to which the Government does not oppose Defendant's motion for reconsideration and release. The Court has also received an updated report from U.S. Probation and Pretrial Services regarding proposed conditions of release. *See* ECF No. 206. The Court finds that the modified conditions and bond presented to the Court by U.S. Probation and Pretrial Services, signed by Defendant, and the Government's approval of such terms of conditional release and bond, has a material bearing on the issue of whether there are conditions of release that will reasonably assure the appearance of Defendant as required.

Based on the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Defendant's Unopposed Motion for Reconsideration of Detention and for Release Subject to Conditions, ECF No. 205, is **GRANTED**, subject to the terms and conditions of the Order Setting Conditions of Release and the Appearance Bond, signed by the undersigned on January 10, 2023.

Date: January 10, 2023

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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