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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

: 15-CR-252 (RJD)

v. :

: January 14, 2016

ALFREDO HAWIT, : Brooklyn, New York

:

Defendant. :

:

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TRANSCRIPT OF CRIMINAL CAUSE FOR BAIL HEARING
BEFORE THE HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: UNITED STATES ATTORNEY
BY: AMANDA HECTOR, ESQ.
PAUL TUCHMANN, ESQ.
KEITH EDELMAN, ESQ.
ASSISTANT U.S. ATTORNEY

For the Defendant: JUSTIN WEDDLE, ESQ.
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Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 (Proceedings began at 4:42 p.m.)

2 THE CLERK: Criminal Cause for a Detention Hearing,
3 United States v. Alfredo Hawit, Case No. 15-CR-252.

4 Please state your appearances starting with the
5 plaintiff.

6 MS. HECTOR: Amanda, Paul Tuchmann and Keith Edelman
7 for the Government. Good afternoon, Your Honor.

8 MR. WEDDLE: Good afternoon, Your Honor.

9 THE COURT: That's a very long name that you have.

10 MR. WEDDLE: You forgot your last name.

11 MS. HECTOR: I'm sorry. Amanda Hector.

12 THE COURT: You said your name is Amanda Paul
13 Tuchmann.

14 MS. HECTOR: Amanda Hector, Paul Tuchmann and Keith
15 Edelman. I'm sorry, Your Honor.

16 MR. WEDDLE: Good afternoon, Your Honor. I'm Justin
17 Weddle and my client Alfredo Hawit is here next to me.

18 THE COURT: Good afternoon, sir.

19 THE DEFENDANT: Good afternoon, Your Honor.

20 THE COURT: What happened medically? We -- did the
21 doctor --

22 [Pause in proceedings.]

23 THE DEFENDANT: No, I did not see the doctor.

24 THE COURT: Do we know what happened?

25 THE CLERK: Will the interpreter please state your

1 name and the language she is interpreting for the record.

2 THE INTERPRETER: [Inaudible]

3 THE CLERK: Please raise your right hand.

4 Interpreter, Sworn

5 THE CLERK: Will the defendant please raise his right
6 hand.

7 Alfredo Hawit, Defendant, Sworn

8 THE CLERK: Thank you.

9 THE COURT: Has the Government been able to speak to
10 all the sureties at this point?

11 MS. HECTOR: The Government -- we've been able to
12 speak to everyone except Edith who to my understanding does
13 not want to be a surety. I do have if the Court would like it
14 some additional information on some of these suretors
15 including some points of clarification from what's in the
16 Pretrial Services Report.

17 THE COURT: Okay. Have you discussed this with --

18 MR. WEDDLE: Yes, Your Honor. I spoke with Edith
19 Machi and she said she doesn't -- she has full faith that the
20 defendant is going to appear as required and is happy to
21 support him in any way that she can but she does not feel
22 comfortable signing anything. She's 77 years old. I think
23 there's been some miscommunication, confusion, second
24 thoughts. I'm not sure what but regret to have to inform the
25 Court that she's not a proposed co-signer.

1 As I said yesterday I think that the risk of flight
2 here is fully ameliorated by home detention with electronic
3 monitoring and on top of that we have other proposed co-
4 signers but I think really home detention with electronic
5 monitoring would be enough given the situation here as long as
6 the defendant surrenders his passport. But Edith is not a co-
7 signer.

8 I also was reading the Pretrial Services Report
9 regarding Pretrial's interview with Lizette Hawit Madrano.
10 Ms. Hector and I spoke to Ms. Madrano today and I separately
11 spoke to Ms. Madrano today and based on my conversation I do
12 not believe she's willing to post her property but she is
13 willing to co-sign the bond.

14 MS. HECTOR: Your Honor, if I may just note to
15 correct or to add to what's in the Pretrial Services Report,
16 my understanding from -- we both participated in a
17 conversation with Ms. Madrano. She actually owns two homes,
18 not just one home. The one home that is listed in the
19 Pretrial Services Report that is worth about \$280,000 and does
20 not have a mortgage is owned between her and her brother and
21 she has another home that she purchased about 12 years ago
22 that is owned by Ms. Madrano and her son and that has a
23 current equity of about \$240,000. So both of those properties
24 are in the Miami, Florida area and together have a little more
25 than \$500,000 worth of equity.

1 I'll also note that we did speak with Ms. Meschini
2 who Pretrial has noted in this report but they didn't get to
3 speak to her. So I can give the Court some information about
4 her situation. She knows Lizette Hawit, Lizette being the
5 daughter. Not Lizette Madrano but Lizette Hawit, the daughter
6 of the defendant. She said she's known her for about a year
7 but she became friends with her in October of this -- this
8 past October. They work together. Somewhat similar to the
9 defendant's daughter she makes about \$600 per month because
10 she works part-time at the preschool and she has not met Mr.
11 Hawit, the defendant. She just knows -- has become friends
12 with his daughter since October.

13 THE COURT: Okay.

14 MS. HECTOR: And the other thing -- so in addition
15 to the Government continuing its position that we feel it's
16 important to have a secured bond and we had stated the amount
17 of \$500,000 which is within the means here if Ms. Madrano and
18 her family members were willing to post their two properties
19 in Florida.

20 I'll also just note from the Pretrial Services
21 Report that it appears that the defendant has significantly
22 more assets than was propounded in the submission from defense
23 counsel. From the Pretrial Services Report it looks like he
24 has a little over \$2 million in assets. The Pretrial Services
25 Report does not note anything about the income of the

1 defendant prior to his arrest or the income of his wife and it
2 is our understanding that his wife [inaudible] I don't know
3 what her income level is but we would just reiterate that one
4 of the [inaudible] that we look at that is important to us in
5 terms of securing a bond is that the amount be substantially
6 an [inaudible] in excess of the net worth so that there isn't
7 an opportunity for someone to say flee and compensate the
8 people that are on the hook for the bond.

9 Again, the Government was very hopeful and is still
10 hopeful that we can come up with a bond that satisfies what
11 the Government believes is sufficient but not greater than
12 necessary to secure his appearance and that may be possible if
13 Ms. Madrano were to reconsider or some of the other
14 individuals who are not on this list but were at some point
15 mentioned that are homeowners, if those people would perhaps
16 be willing to put up their property.

17 THE COURT: I have a question as to income because --
18 I have a question as to income because the income that Mr.
19 Hawit receives apparently comes from not only his work as a
20 lawyer but it may also come from other property. Does counsel
21 know if there's any income from the shopping center or from
22 any of the properties in Honduras or what this -- a broader
23 question, what the source is of his income or his family's
24 income would be now.

25 MR. WEDDLE: My understanding is that there is some

1 income from the properties, from the apartments and the
2 shopping center but they largely just cover the expenses for
3 those properties. So there isn't a substantial amount of net
4 income. I could look in my binder. I have some numbers.
5 Just to ball park it, Your Honor, I would say it's much less
6 than for example \$10,000 a month in net income, much less than
7 that.

8 The defendant's income, and I'm doing this from
9 memory but he's lost some of his income because a lot of his
10 income came from FIFA and from CONCACAF. There's no
11 indication that that money is going to continue flowing to
12 him. In fact, FIFA has taken a number of steps against him
13 already notwithstanding the fact that he's been essentially
14 out of communication and locked up in Switzerland. They've
15 moved swiftly. I would estimate that his total income is --
16 was before losing those sources of income less than \$200,000
17 but I can check with my client to see if I'm in the right ball
18 park.

19 [Pause in proceedings.]

20 MR. WEDDLE: My client tells me I'm in about the
21 right ball park, Your Honor.

22 I have to take issue with the prosecutor's statement
23 that the Pretrial Services Report is inconsistent with our
24 submission, Your Honor. It's absolutely not inconsistent with
25 our submission. Our submission said that the defendant has

1 some properties and small businesses with the equity value
2 less than \$400,000. The properties, the other properties are
3 owned by the defendant's wife. There's a piece of property
4 owned by the defendant's wife that was inherited by her
5 parents many years ago. It's in his family. I understand that
6 there's some title issues with this property. I expressly
7 talked about this piece of property with Your Honor yesterday
8 in open court. The prosecutor was next to me and I also
9 talked about the value of his house, and what I said about
10 those things, Your Honor, is that those are illiquid assets.
11 There are two pieces of property owned by his wife in
12 Honduras.

13 This flight of fancy the prosecutor is talking
14 about, the defendant is going to flee to Honduras and then pay
15 back all the suretors out of his net worth is beyond I think a
16 reasonable prediction of anything that would be likely to
17 occur. If the defendant decided to flee the United States and
18 go to the one place where he has resided he would not only be
19 a recognizable famous person because of his prominence in the
20 community and because of the prominence of this case but the
21 only place he would have to go would be to his marital home
22 which is owned by his wife, the same place he's lived for
23 decades. That is not [inaudible]. There's no risk that the
24 defendant is going to do that. It's absurd.

25 So the risk of flight here -- there is a risk of

1 flight here, we acknowledge that, Your Honor, and it's caused
2 by the fact that the defendant is a Honduran citizen. He's an
3 established member of the community in Honduras. He has a
4 home. It's a fixed home. It's the same place he's lived for
5 a long time. It's where he lives with his family.

6 This prosecution office decided to reach out across
7 the world and charge a crime involving people who travel to
8 the United States but do not commit the crime in the United
9 States. The allegations that are in this indictment are about
10 the movement of money through banks and I should note, Your
11 Honor, that in this indictment only charge against the
12 defendant is venued in the Eastern District of New York.
13 Every charge against the defendant expressly states in the
14 indictment in the Southern District of New York and elsewhere
15 or in the Southern District of New York and the Southern
16 District of Florida and elsewhere. On its face every charge
17 against the defendant is subject to a motion to dismiss for
18 lack of venue. Every charge except for the RICO conspiracy.
19 The RICO conspiracy, Your Honor, obviously is there for
20 strategic reasons. It's a massive charge involving at my last
21 count 40 something people spanning decades, people who have
22 met each other from different organizations all corrupting the
23 FIFA enterprise. That's the only reason why the defendant
24 could be standing in this courtroom in front of Your Honor.

25 So because the defendant is an established member of

1 a community who's been dragged into this Court based on
2 allegations that don't even allege the commission of crimes in
3 this courtroom except for the RICO conspiracy. He's now being
4 subjected to conditions way beyond what any similarly situated
5 defendant would be subjected to. If he were the same person
6 with the same career living in a house in New Jersey we'd be
7 talking about release on his own recognizance, Your Honor, I
8 submit.

9 I could be wrong. I was a prosecutor for many
10 years. This looks like an ROR case to me or at most a
11 personal recognizance bond. He's the same person. We've
12 proposed that he live on home detention with electronic
13 monitoring with his daughter and with his grandson in Florida.
14 It's more than enough. It satisfies the statute. It is --
15 the statute requires not as much as we can get. It doesn't
16 permit the speculation that the prosecution engages in to say
17 well, gee, this person has some property too. Ms. Madrano has
18 \$500,000 in property. Both of those properties by the way are
19 co-owned with people who live in Honduras and regardless she
20 doesn't want to post the property, Your Honor. The argument
21 that the prosecution makes would obtain in every case. If
22 that were the standard, if the standard were if there's more
23 available let's take it then in every case you'd be having
24 massive, massive bail packages. In an ROR case you would say
25 well, you couldn't release him on his own recognizance because

1 there's no real risk that he's going to flee but why not have
2 him sign a bond. He could do that too. It could be \$1
3 million bond. If it's \$1 million bond why not a \$10 million
4 bond. It's a signature. He could do that also and if
5 someone's willing to sign a bond why not get a co-signer.
6 They can sign \$1 million bond. I'm sure they can get a co-
7 signer and if the co-signer has some property let's get that
8 property submitted to the Court. That's not the question.
9 None of that is the question. The question is what are the
10 least restrictive conditions that are going to reasonably
11 assure the defendant's appearance in court and everything that
12 we've heard from the prosecutor has nothing to do with that
13 question. It has to do with what more, why not, why isn't
14 someone else willing to put up some money.

15 The finances that are in Honduras owned by his wife
16 do not finance the life of a fugitive. They don't. They
17 might permit him to go home to Honduras where he would go home
18 and immediately be caught, exactly where he's supposed to be
19 at his marital home.

20 So, Your Honor, based on this -- obviously I've
21 talked about the statutory standard and it is the standard and
22 that's the standard that this Court should use. I think that
23 in many cases notwithstanding that standard there's little
24 incentive, I talked about this yesterday, for a defense lawyer
25 to hold a court or to attempt to hold a court to that standard

1 because if they can meet the package why not, so what, it
2 doesn't matter. This package that we've offered without
3 property security is what I'm confident we can deliver. If I
4 could deliver property as security I would have offered that.
5 I've talked to Ms. Madrano. She told me she's not willing to
6 put up her property. That's all I can do. So if we engage in
7 this why not more, some people have property, let's get them
8 to take it, it's within their power to give it. Of course
9 it's within their power to give it. It's within all sorts of
10 people's power to co-sign bonds. We don't walk around on the
11 streets and say well, it's in your power to co-sign a bond,
12 it's in your power to co-sign a bond, let's not let him out
13 unless those people who have the ability and the wherewithal
14 to do it come forward and co-sign a bond. That's not how we
15 do it. We figure out what are the least restrictive
16 conditions that are going to reasonably assure his appearance
17 and what we've proposed is more than enough, Your Honor.

18 MS. HECTOR: May I briefly respond? There's a lot
19 that I think goes beyond sort of what we're here to decide
20 today. But I think it's important to note that I think the
21 Government's position is very reasonable here and I think that
22 what is being proposed is far afield of what is the least
23 restrictive bond necessary to secure his continued presence
24 here and appearance in court. The four individual -- of the
25 four individuals that are proposed two, his daughter and his

1 daughter's friend who I'm not sure is really a responsible
2 suretor of moral suasion to this individual but those two
3 people make the equivalent of \$500 or \$600 per month. That is
4 a difficult person to offer anything other than moral suasion
5 and while his daughter may offer some moral suasion the second
6 woman really does not fall within that camp. She's never even
7 met the defendant.

8 The other two people, Ms. Madrano, she has a
9 [inaudible] business that she just started in December that's
10 made about \$1,000 thus far. What she does have are these two
11 properties and I think that when you have a bond that's
12 consisting of suretors who are mostly moral suasion the
13 question you ask is do those people hold real influence over
14 the defendant and do they trust that they're willing to put
15 their name on something that will insure that the defendant
16 shows up. I think it does beg a big question why Ms.
17 Madrano -- we're not talking about that she owns these
18 properties with strangers or non family members. They're
19 family members.

20 Given the defendant here who's not a citizen of this
21 country, who had -- who was engaged in bribery schemes
22 involving the receipt, the person receipt by him and his
23 family members of hundreds of thousands of dollars of bribes,
24 we're talking about someone of means and prominence that has
25 the ability if not to flee to his home country of Honduras but

1 potentially somewhere else. I mean he has significant
2 contacts abroad with powerful individuals as part of this
3 case.

4 So I think here really what the Government is asking
5 for and what Pretrial supports as a bond is the least
6 restrictive and it's important that he meet that in order to
7 assure the Court that he's going to appear in the future.

8 MR. WEDDLE: Your Honor, just briefly. From my
9 reading of the Pretrial Services Report it does not support
10 the Government's application. It asks for security, that's
11 for sure. The Government asked for \$500,000 in security.
12 Pretrial didn't say anything like that.

13 THE COURT: But I think you're framing the question
14 in the wrong way. It's not whether it's your position or the
15 Government's position. It's really what's a reasonable
16 position in this situation and I'm not sure that the
17 Government's position -- I'm not sure I would require the
18 entire amount of security that the Government is looking for.
19 It may be more than what I would require but I would like to
20 see more. The package that you have now is not a substantial
21 package.

22 Now, if there's no prospect of getting anything more
23 than that then the question will be how long would it be fair
24 to detain someone in the hope that something more substantial
25 will materialize.

1 MR. WEDDLE: Your Honor --

2 THE COURT: And it looks as though -- it looks as
3 though you've exhausted your efforts at this point. I mean
4 the question is not the Government's position or your
5 position. The question is what is reasonably required in
6 order to keep someone who has very few ties with the United
7 States in this country for the prosecution of the case. It's
8 essentially -- basically what it is is the home detention with
9 a couple of people securing it but with very limited incomes
10 and one of them doesn't even know the defendant. So that's
11 not really a substantial package.

12 So the question is what in addition to the home
13 detention could secure his appearance in court.

14 MR. WEDDLE: Your Honor, I have exhausted -- I have
15 been working on this problem for a month, Your Honor, for more
16 than a month. The defendant was arrested in Switzerland I
17 believe on December 3rd or something thereabouts and this is
18 what I've been working on. I wish I could work on the case
19 but I've been working on this and I've been working as hard as
20 I can on this. If I thought there was a little bit more -- if
21 I could make another phone call and get a little bit more
22 believe me I wouldn't be here so concerned about this argument
23 and about the statements that are being made by the prosecutor
24 because I would rather that we were doing something else on
25 this case than worrying about this.

1 But I believe that the package that we put forward
2 more than satisfies the statute. It's up to Your Honor to
3 decide. I completely recognize that and Your Honor is going
4 to make the decision that Your Honor thinks is best in your
5 wisdom and if it's something that we are not meeting today
6 then I'm going to go back and keep working on it. I have no
7 prospect of coming up with anything else. I've tried. I mean
8 to just say there are these people who have equity, don't you
9 think I've tried to get them.

10 THE COURT: I believe that you tried very hard. I'm
11 sure you have.

12 MR. WEDDLE: So --

13 MS. HECTOR: Your Honor, I think I have an important
14 point to make with respect to this because yesterday defense
15 counsel said that he had only spoken to two of these
16 individuals. If you look at the Pretrial Services Report it
17 states that, Your Honor, the owner of those two properties
18 noted that she had not previously been asked to sign to post
19 those properties. Now, I've had conversations with Ms.
20 [inaudible]. She said the same thing to me when I interviewed
21 her. I've had conversations with Mr. Weddle about this. I
22 think maybe there's some confusion about whether a family
23 member [inaudible] or not but my sense from talking to
24 [inaudible] was that some of this was a new prospect to them.
25 Whether there was a miscommunication or something that was

1 misunderstood may be but I'm not convinced that the efforts
2 have been exhausted, if people understood -- and this is not
3 something I communicated this on the phone to them because it
4 was not really my place to do so but if people understood that
5 that is necessary in order to secure the defendant's release
6 and there wasn't an alternative of well, maybe we can
7 [inaudible].

8 MR. WEDDLE: Well, it's not necessary to secure his
9 appearance, Your Honor, and that's the question. It's not
10 necessary to secure his appearance.

11 THE COURT: I know you believe that and I haven't --
12 I haven't made a final decision on that but it's an issue that
13 for me is not as clear as you think.

14 MR. WEDDLE: Well, all I can do is make an argument,
15 Your Honor --

16 THE COURT: As I said, no --

17 MR. WEDDLE: -- and I strongly believe that.

18 THE COURT: Right.

19 MR. WEDDLE: And I think if you look at the
20 defendants who have been let out on bail, Your Honor, around
21 the country and then there was a defendant who was let out on
22 bail recently, a very prominent defendant who then was
23 permitted to travel to Mexico with his entire family. He
24 happens to be a U.S. citizen but the charges against this
25 defendant, the prosecutor talked about --

1 THE COURT: It's an obstruction charge. That changes
2 things a little bit. That's what distinguishes him from
3 others.

4 MR. WEDDLE: I understand that, Your Honor, and I
5 haven't heard the circumstances. I don't know the
6 circumstances of the obstruction charge but it looks to me --

7 THE COURT: [Inaudible] in the indictment.

8 MR. WEDDLE: It looks to me like what happened is
9 under FBI supervision a cooperator solicited and elicited
10 conversations with the defendant about the pending charges and
11 his statements that are charged as an obstruction, rather in
12 the spectrum of obstruction charges, these are very close to
13 an exculpatory [inaudible]. There's no chance [inaudible]
14 defendant is going to seek out people the way that these
15 cooperators -- I suspect -- no one has corrected me to say
16 that I'm wrong. I suspect that these cooperators participated
17 in seeking out the defendant and all -- this issue, Your
18 Honor, the obstruction issue is not connected to whether
19 there's security on a bond.

20 THE COURT: No, no. The obstruction issue is
21 connected to the issue of respect for the law and whether or
22 not he would obey a lawful order or try to find a way to
23 circumvent it and that's the issue before me now. The home
24 detention is one way to maintain him in a residence. The
25 question is would he be looking for other means to get around

1 the home detention and to make his way somewhere else. It's
2 quite possible that he wouldn't. He has medical conditions.
3 He's frail, et cetera. But that's the issue for me and that's
4 the reason why the Government's argument and Pretrial
5 Services' conclusion that something more than this package is
6 necessary and I find that that argument is not totally without
7 reason.

8 So have they proven by a preponderance of the
9 evidence at this point that he's a risk of flight? I'm going
10 to reserve decision on that.

11 MR. WEDDLE: I think -- maybe I said this -- all I
12 can say. I understand the questions that th prosecutor is
13 asking. I understand the prosecutor's needs. I have big
14 numbers for the press but I think the reality is --

15 THE COURT: I'm not concerned about the prosecutor's
16 position frankly. I hear what they have to say. I hear what
17 you have to say and ultimately the decision is one that I'm
18 going to have to live with which is is this defendant a risk
19 of flight and has the Government proven it by clear and
20 convincing evidence. I've looked at all the criteria under
21 the Bail Reform Act, his individual characteristics, the
22 nature of the crime, the evidence, et cetera, et cetera. I
23 think we've discussed that. It's been discussed in the
24 memoranda and in the end we all know what the criteria are but
25 applying them to this particular situation is something that

1 requires a little thought on my part and I'm going to give it
2 a little thought at this point. If it were so clear that the
3 Government hadn't met its burden of proof I would release him
4 now but it's not that clear to me.

5 MS. HECTOR: I just note I think Your Honor has
6 spoken is it clear and convincing evidence. It's a
7 preponderance.

8 THE COURT: No, I said preponderance. Didn't I say
9 preponderance?

10 MR. WEDDLE: You said clear and convincing.

11 THE COURT: I thought I said preponderance. Sorry.
12 Preponderance. Yes, it's preponderance.

13 MS. HECTOR: I'll also just note that with respect to
14 the obstruction and witness tampering charge, as laid out in
15 the indictment, and this is a recorded conversation, the
16 defendant tells an individual to make false statements to the
17 FBI about the money. He tells them -- he instructs him to
18 create sham contracts to disguise the bribe payments that he
19 received. This isn't false exculpatories or exculpatories.
20 I'm not sure how you were responding to it but it's far from
21 [inaudible].

22 MR. WEDDLE: I take it because I've made this
23 allegation a number of times and no one from the prosecution
24 table has corrected me that the people that he talked to were
25 people that they set him up with and they probably directed

1 those people to elicit statements from him. They probably
2 told them what to ask him. They probably said to their
3 cooperators talk to Mr. Hawit, ask him what you should do if
4 you're contacted by the FBI. So I don't fault them for that,
5 Your Honor, but I'm saying that the facts of this obstruction
6 are not going to recur. There's no indication that that has
7 occurred.

8 THE COURT: I understand the argument on that.

9 MR. WEDDLE: Well, I don't think I have anything to
10 add, Your Honor. I stand by the statutory language and
11 standard and the only reason that I'm arguing so hard, Your
12 Honor, is because I am deeply concerned that an order greater
13 than what we've proposed is unattainable and the defendant's
14 been in jail for -- since December 1st and I think we're
15 quivelling about security -- quivelling is the wrong word. We
16 do have a disagreement between the parties and Your Honor has
17 pointed out it's not about our position or their position but
18 when you take a step back there's not a massive difference
19 between us.

20 THE COURT: It's about a package. It's about the
21 strength of the package and at this point the package is
22 light.

23 MR. WEDDLE: And the piece of the package that
24 Pretrial and the Government has identified as missing that we
25 haven't put forward is security and --

1 THE COURT: Or more income or something else. It's
2 something to make it -- it doesn't have to be what the
3 Government says. It doesn't have to be --

4 MR. WEDDLE: I know it doesn't have to be but I don't
5 know any other target to shoot at, Your Honor.

6 THE COURT: No, the target to shoot at would be
7 something more and I don't know -- I accept your
8 representation that there won't be anything more.

9 MR. WEDDLE: I don't think there is anything more,
10 Your Honor. I mean --

11 THE COURT: I'm going to consider the record and
12 think about it.

13 MR. WEDDLE: For a month I've been going back to this
14 family and saying more, I need more. I've been saying that
15 for a month. So -- and we got to here and in fact we then
16 took a step back because yesterday I had another person and
17 the entire process of asking for more is causing people
18 concern and I have a deep fear that it's unattainable and I
19 have my own personal belief which I understand is not Your
20 Honor's belief or doesn't have to be Your Honor's belief but
21 all I can do is say it again which is that it's more than
22 enough already and if Your Honor sets something more obviously
23 we're going to try to attain it and if we attain it great, I
24 was proven wrong. But this isn't an appearance where the
25 defendant was arrested yesterday. I've been doing this for a

1 month.

2 THE COURT: I understand. I'm saying that I'm
3 reserving decision at this point on the package that's being
4 presented. If you come up with something more of course that
5 would be helpful but I'll make my decision based on what's in
6 front of me.

7 MR. WEDDLE: Your Honor, I would submit that it would
8 be most helpful to order a package. I mean set a group of
9 conditions that I can try to meet, Your Honor, because to
10 just --

11 THE COURT: It will give you a target.

12 MR. WEDDLE: To go back and say more I fear -- I
13 actually fear that that's going to result in less because
14 people are going to say -- they're going to say I don't get
15 it. Like you've said that to us two weeks ago.

16 MS. HECTOR: Your Honor, the problem with that
17 proposal is to the extent that there are additional people
18 that are unknown right now that have not been identified, that
19 have not been interviewed, who knows what kind of assets those
20 people have, what kind of values in their homes. So to set a
21 number without reference to who these people are and what they
22 can legitimately put together I think would be a mistake. I
23 think that if defense counsel thinks that he can come up --
24 obviously the Government agrees that what is being offered is
25 insufficient but if defense counsel thinks he can come up with

1 more or convince additional people then we should talk about
2 that when there's something tangible to talk about.

3 MR. WEDDLE: Your Honor, I disagree. I think that
4 that is burden shifting, Your Honor. That's simple burden
5 shifting. That's not how you do it.

6 THE COURT: I understand the position and I have set
7 bonds before without knowing who the suretors are going to be
8 and then if at that point the suretors appear not to be
9 appropriate then we can always say no but the -- there are
10 just a few disconnects here in this case which makes it
11 difficult for me to understand the significance of the
12 defendant's ability to get a stronger package.

13 The disconnects are number one, that he's prominent
14 in Honduras, he has many connections all over the world and I
15 would assume he has many friends and many people who believe
16 in him in Honduras and other places and it's just not clear to
17 me why no one can -- no one, friends or others can deposit
18 even \$10,000 into the Court.

19 MR. WEDDLE: So order \$10,000 then. He has been
20 unable to communicate with anyone except for his Swiss lawyers
21 until yesterday, Your Honor. Yesterday. I visited in jail in
22 Zurich in the first week of December.

23 THE COURT: I understand. So he needs more time to
24 do that.

25 MR. WEDDLE: Your Honor, he needs to get out so he

1 can talk to people. If he could talk to people then maybe
2 this would be different. He's relying on his sons and his
3 daughter and most of his contacts are in Honduras, Your Honor,
4 and so we've been told that we should look for United States
5 contacts and that's what we're looking for. If Your Honor
6 ordered \$10,000 security then at least I'd be able to go and
7 say you got to find me \$10,000. If Your Honor ordered what
8 the Government's proposed \$500,000 security I don't think we
9 would meet it but frankly that's better than Your Honor just
10 saying go get more because it's causing serious issues because
11 I have to deal with my client. I have to deal with his entire
12 family and I have to rely on obviously what I -- my judgment
13 on this and I say look, this is the type of case -- I mean the
14 schemes that he's charged in have a grand total of \$1 million.
15 The bribes that he personally is alleged to have taken took
16 place in I think 2012.

17 So this is not a detention case. This is not a
18 massive package case. His finances are not the finances of a
19 person who can post a massive package and if they were believe
20 me, we'd be -- we wouldn't be in this position. I would have
21 reached an agreement.

22 THE COURT: I understand your position.

23 MS. HECTOR: Your Honor, I just feel the necessity to
24 sort of correct the record here. He's suggesting that this is
25 not the person of prominence that he is. I mean we're talking

1 about someone that has a net worth in Honduras of
2 approximately \$2 million who was a prominent lawyer who held
3 positions of prominence being the president of the Honduran
4 Soccer Federation, the president, the acting president of
5 CONCACAF and then the president of CONCACAF, traveled all over
6 the world, was very close with the former president of the
7 Republic of Honduras. This is not someone who -- I think Your
8 Honor has hit the nail on the head. It begs the question why
9 unlike similarly situated defendants who have been able to
10 call on friends -- yes, he's been detained but as defense
11 counsel stated defense counsel has been in contact with his
12 family for at least a month now. He has a wife who is in
13 Honduras and can be sort of making phone calls on his behalf.

14 I also think again and I said it yesterday. I think
15 there's a big elephant in the room here that why someone like
16 Lizette Madrano who is his cousin who claims to be so close
17 with him and believes that there's no way he would ever
18 contravene the conditions of his bail has two properties that
19 she owns with family members and is unwilling or hasn't been
20 asked or who knows to post those.

21 MR. WEDDLE: Your Honor, I have asked --

22 MS. HECTOR: I think that begs a huge question as far
23 as even the family's trust or willingness to put something
24 that they own at risk with respect to the defendant's
25 appearance in court. If everyone is so certain that there's

1 no way that anything is at risk I'm not sure why we're in this
2 bubble.

3 So I just think that defense counsel is presenting a
4 picture and he does sort of a good job of it when he goes on
5 and on about these circumstances that acts like this person is
6 of very limited means and of very limited contacts and is far
7 from home and has been far from home for a while. We're
8 talking about a very sophisticated individual who engaged in a
9 sophisticated scheme, bribery schemes over a period of years
10 and held significant positions of power that he abused and
11 abused that position of trust that people put him in to get
12 himself here. So I think we're sort of losing a little bit of
13 sight of the true facts here. And the obstruction and witness
14 tampering, I mean that -- as Your Honor said, that's hugely
15 significant because while at this point he might not be given
16 the same exact opportunity to obstruct justice or tamper with
17 witnesses [inaudible] ability to still exists throughout the
18 rest of this investigation and -- this don't go away.

19 So for all those reasons I mean just sort of -- I
20 don't want to sound like a broken record but the Government
21 believes that he is completely bailable and the Government
22 also believes that it is within his -- defense counsel keeps
23 saying he can't come up with it. I guess there's a question
24 of the semantics of what the definition of can't. Can't maybe
25 because his family members won't post their property. They

1 could, they could. They could meet the conditions that the
2 Government has suggested. I know that's just the Government's
3 position but they could meet those conditions with a couple of
4 signatures but if they were willing but they're not and I
5 think that's basically --

6 THE COURT: Well, I'm actually wondering why someone
7 couldn't get a loan, a home equity loan or a loan on some
8 property in Honduras and transfer it. Those are questions.

9 MR. WEDDLE: Yes, Your Honor, the problems with that
10 are, Your Honor, that last I checked which was a couple of
11 weeks ago Honduras had taken steps to seize the properties
12 including his marital home. I don't know if that's caused by
13 the United States Government. I don't believe it is because
14 there's no indication that any of his property was purchased
15 with any bribe money or anything like that. There's nothing
16 like that that's been said to me. So I think that that is
17 just Honduras acting on its own.

18 MS. HECTOR: And frankly --

19 MR. WEDDLE: But these things are not so easily done
20 and if they were easily done we would have already done them.

21 MS. HECTOR: And frankly it's based on that
22 representation the Government in an attempt to be reasonable
23 did not suggest huge amounts of cash as we had gotten in the
24 case of some similarly situated defendants who frankly weren't
25 charged with as many schemes as this defendant and certainly

1 weren't charged with witness tampering and obstruction of
2 justice. It's why we suggested the \$500,000 in security. Not
3 in cash based on properties in Honduras because who knows. I
4 don't know that that's accurate or whether Honduras is moving
5 to seize those properties or not. I don't.

6 MR. WEDDLE: My understanding is that there's no
7 mechanism that would be acceptable to the prosecution to
8 actually post property in Honduras. What Your Honor mentioned
9 is owing money against the property in Honduras. If we could
10 do that great. It hasn't happened. I understand that there's
11 a lot of uncertainty in Honduras including with the bank
12 accounts because in this day and age when a charge is against
13 somebody sometimes bank accounts, they're frozen or closed
14 just by action of the bank.

15 So I don't think that it's easy to do that and I'm
16 not sure that it's doable to do that. The properties that
17 we're talking about, the prosecution says he's a very
18 prominent person with a \$2 million net worth. 75 percent of
19 that net worth is only in the name of his wife and most of
20 that comes from her family property inherited and the rest
21 is --

22 THE COURT: But is that property that she owns
23 herself or --

24 MR. WEDDLE: I believe that it's property -- I think
25 that she owns part of it herself or maybe co-owned with

1 siblings. My understanding is that there's some title issues
2 in the sense that there are some people who have moved in. So
3 there are people occupying like squatters and so all of these
4 are issues.

5 THE COURT: This is all very vague. It's very hard
6 to get a handle on all of this.

7 MR. WEDDLE: It's Honduras, Your Honor.

8 THE COURT: I understand.

9 MR. WEDDLE: I agree and I think if Your Honor --
10 but, Your Honor, the bottom line is his net worth is not some
11 massive net worth. He can be president of FENAFUTH. It
12 doesn't create wealth and I can show you what his income is
13 like. I gave you a ball park before. His monthly income from
14 FENAFUTH I believe was about \$6,000.

15 MS. HECTOR: Well, you already said that his income
16 is \$200,000 was what he's making.

17 MR. WEDDLE: His monthly income from CONCACAF -- can
18 I just -- his monthly income from CONCACAF is about \$7,000.
19 He had an income from FIFA which started when he became a vice
20 president of FIFA this year after the first indictment was
21 issued and that created income. I think he got a lump sum of
22 \$150,000 from income but that's not an ongoing amount of money
23 and that's new. Then his wife has a salary in the order of
24 two to \$3,000 a month. She makes consulting money and he has
25 a pension from his time as a professor of about \$1,600 a

1 month. So his total income -- he's not a person who's --

2 THE COURT: Does he have money in the bank? Is there
3 any -- does he have any savings?

4 MR. WEDDLE: Negligible. I don't have a listing of
5 bank accounts here but my understanding is that there's money
6 in the bank. Cash in the bank is considerably less than
7 \$20,000.

8 MS. HECTOR: Your Honor, we're also talking about
9 someone that's alleged to have received hundreds of thousands
10 of dollars in bribes.

11 MR. WEDDLE: Years ago.

12 MS. HECTOR: So -- no, between, conduct 2008 to 2014-
13 ish. So I think -- to a certain extent we're taking these
14 representations as -- and I'm certainly not suggesting that
15 counsel's representations aren't what counsel believes to be
16 accurate but I think we have to take some of that with a grain
17 of salt. I mean when we're talking about someone who received
18 bribe money who used intermediaries and received that bribe
19 money and that money directed to an account in someone other
20 than his -- we got to take it with a grain of salt also.

21 THE COURT: As I said, I think there are a lot of
22 unanswered questions here that give me pause and given the
23 amount of assets that Mr. Hawit had, the income that he had
24 over time, the family assets at least through his wife,
25 there's just a question of why no cash -- it's impossible to

1 posit any cash or secure any property. That's the --

2 MR. WEDDLE: He also has to fund his defense, Your
3 Honor.

4 THE COURT: I understand.

5 MR. WEDDLE: So that was the starting thing to
6 collect money to fund the defense. Then we started with this
7 bail issue. So there's not a lot of free funds and --

8 THE COURT: I haven't seen any though, any cash
9 that's been deposited. That's --

10 MR. WEDDLE: I just -- I [inaudible], Your Honor, if
11 you set something that you think will reasonably assure the
12 defendant's appearance we'll try to meet it.

13 THE COURT: Well, if you -- I can't say that I'm
14 going to rule for or against but if I saw something in the
15 range of 20 to \$50,000 deposited in cash with the Court that
16 would be a significant amount.

17 MR. WEDDLE: Thank you, Your Honor. I appreciate
18 that guide. I'm going to take that right back and see if we
19 can find that. I know that he's owed \$50,000 by FIFA. We're
20 pursuing that. We haven't received it yet. If that came
21 in --

22 THE COURT: If you got the 50 of it that would be a
23 more significant amount.

24 MR. WEDDLE: We would be happy to deposit that with
25 the Court but this is --

1 MS. HECTOR: [Inaudible] his conduct while he was an
2 official with FIFA I'm not sure that FIFA would feel that they
3 owe him the money he thinks that he [inaudible].

4 THE COURT: That's something else. Let's see what he
5 can find.

6 MR. WEDDLE: I totally agree and I appreciate hearing
7 from the prosecutor that they think that his conduct that
8 they're charging him with is clearly within the confines of
9 his activities on behalf of FIFA.

10 MS. HECTOR: That's not what I said.

11 MR. WEDDLE: Well, then I misunderstood.

12 THE COURT: Well, anyway, I think we got enough
13 colloquy here at this point.

14 MR. WEDDLE: If that were the case, Your Honor, that
15 might solve some issues for me [inaudible] their position that
16 they said on the record.

17 THE COURT: Do you want me to set a time next week
18 for you to come back or do you want me to reserve decision and
19 wait to hear from you? We have a temporary now.

20 MR. WEDDLE: I would prefer to have Your Honor rule
21 and issue a set of conditions.

22 THE COURT: I told you that if I saw some cash and
23 I'm saying even as low as 20 to \$50,000 in cash at this point
24 that would answer some of the questions that I have. I can't
25 tell you that I would definitely rule in one -- on one side's

1 favor or another without that but I can tell you that there is
2 a -- you have a much, much better likelihood of securing his
3 release with the 20 to 50.

4 MR. WEDDLE: Then yes, Your Honor, let's set a date
5 to come back for sure.

6 THE COURT: Do you need about a week, do you need a
7 little less than a week? Today is the 14th. Do you want to
8 come back on the 21st? Is that enough time to do what you
9 need to do?

10 MR. WEDDLE: I believe so. I hope so, Your Honor.
11 The one wrinkle that I see -- I was going to say less than a
12 week, Your Honor, but since Monday is a holiday and likely a
13 bank holiday that's going to be harder.

14 THE COURT: 11:30 on the 21st?

15 MR. WEDDLE: Your Honor, would it be possible to do
16 it in the afternoon? I'm supposed to be engaged in another
17 interview starting at nine a.m. which should end by noon or
18 one but possibly the afternoon.

19 THE COURT: The afternoon is full.

20 MR. WEDDLE: Okay.

21 THE COURT: I could do -- no, I can do 2:30.

22 MR. WEDDLE: Thank you, Your Honor, for accommodating
23 us.

24 Your Honor mentioned a deposit of cash with the
25 Court. I'm not sure if Your Honor needs to issue some kind of

1 order to permit the Court to receive such a thing.

2 THE COURT: That comes when the money comes for you.

3 MR. WEDDLE: If I show up with a check or something
4 and if I call chambers and say I've got a wire transfer --

5 THE COURT: We have a form here that I can sign.
6 It's not a problem.

7 MR. WEDDLE: Okay. Thank you, Your Honor.

8 THE COURT: We've done wire transfers in cases of
9 others.

10 MR. WEDDLE: Okay. Perfect.

11 THE COURT: You can contact Gerry. He knows how to
12 do it.

13 MR. WEDDLE: Thank you, Your Honor. Thank you very
14 much for all the time you spent with us.

15 MS. HECTOR: Thank you.

16 THE COURT: You have the time. Thank you.

17 (Proceedings concluded at 5:32 p.m.)

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1 I certify that the foregoing is a court transcript from
2 an electronic sound recording of the proceedings in the above-
3 entitled matter.

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5 _____
6 Shari Riemer, CET-805

7 Dated: January 20, 2016
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