

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X	Docket#
UNITED STATES OF AMERICA,	: 15-cr-00252-RJD-15
	: :
- versus -	: U.S. Courthouse
	: Brooklyn, New York
ALFREDO HAWITT,	: :
Defendant	: January 21, 2016
-----X	

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

A P P E A R A N C E S:

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1 THE CLERK: Criminal Cause for a Detention
2 Hearing, United States v. Alfredo Hawit, case number 15-
3 cr-252.

4 Please state your appearances for the record.

5 MS. HECTOR: Amanda Hector, Paul Tuchmann and
6 Keith Edelman for the government.

7 Good afternoon, your Honor.

8 THE COURT: Good afternoon.

9 MR. WEDDLE: Good afternoon, your Honor.

10 Justin Weddle and I am here together with my
11 client, Alfredo Hawit.

12 THE COURT: Good afternoon.

13 THE CLERK: And will the interpreter please
14 state her name and the language she is interpreting for
15 the record?

16 THE INTERPRETER: Maristela Verastegui, Spanish
17 language interpreter. Previously sworn.

18 (INTERPRETER PREVIOUSLY SWORN)

19 THE CLERK: And will the defendant please raise
20 his right hand.

21 A L F R E D O H A W I T ,

22 called as a witness, having been first duly sworn,
23 was examined and testified follows:

24 THE COURT: All right. So I understand there
25 have been some developments since the last hearing.

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1 MR. WEDDLE: Yes, your Honor. We submitted
2 some letters. I'm not sure if your Honor prefer that I
3 stand or sit.

4 THE COURT: No, you can sit because I think
5 it's easier for the interpreter to hear.

6 MR. WEDDLE: We submitted two letters, your
7 Honor. Taking up on or picking up on your Honor's
8 comments at our last hearing where you indicated that if
9 there were an amount of cash on deposit, that that might
10 tip the balance in the defendant's favor for release,
11 based on the package she had proposed.

12 We proposed to add \$50,000 in cash security to
13 the bond. Obviously there's been an exchange of letters.
14 We submitted a letter. The government opposed that
15 proposal. We submitted a response to their opposition.
16 I can speak more about that proposal if your Honor would
17 like. I think most of it's in the papers.

18 And then a development from today, your Honor,
19 is that I spoke to Lizette Medrano (ph.), who is the
20 defendant's cousin.

21 THE COURT: Yes.

22 MR. WEDDLE: And is one of the proposed co-
23 signers. And she told me that she is willing to post one
24 of her properties. We discussed at one of our prior
25 appearances, your Honor, that she has two properties in

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1 the Miami area, one that she resides in and one that her
2 son resides in. She's willing to post the one that her
3 son resides in. She estimates that the value of that
4 property is about \$260,000 and it carries a mortgage with
5 a principal amount of about \$18,000.

6 So despite my predictions, we have been able to
7 come forward with some additional property from these co-
8 signers to secure the bond. Obviously, your Honor, I
9 stand by the position we originally submitted which was
10 the original proposal was enough, reasonably to assure
11 the defendant's appearance but this is obviously a much
12 stronger proposal and we would ask that your Honor order
13 it.

14 MS. HECTOR: Your Honor, the government
15 continues to oppose the adequacy of this proposal for the
16 following reasons. I won't go into the government's
17 position with respect to the original proposal of \$50,000
18 from the attorney's retainer because I believe that's
19 that's fully explicated in the filings, although I am
20 happy to talk about that further if your Honor would like
21 further argument with respect to that issue.

22 But with respect to the additional property
23 from Ms. Medrano, the government believes that is a step
24 in the right direction. What we've asked for all along
25 is approximately \$500,000 worth of security on this bond

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1 which could be accomplished by the two properties that
2 Ms. Medrano owns. Two -- a property that's worth
3 approximately 240- or -- I think \$240,000, it's -- and
4 signed by the four proposed four suretors that the
5 defendant is proposing here is still inadequate, we
6 think, for a number of reasons.

7 One, the four proposed suretors, in essence, I
8 think all the government would likely to be able to
9 collect if the defendant fled, would be the posted
10 property and that's because the suretors that have been
11 proposed, their financial situations don't permit much
12 more -- the government obtain much more than that from
13 them.

14 That \$250,000ish -- \$240,000, is still just a
15 fraction of the defendant's net worth. It is still
16 significantly less than the amount of bribes the
17 defendant is accused of having received as part of his
18 participation in this scheme.

19 As we've stated before on the record, I think
20 it's relevant, although each defendant needs to be looked
21 at individually, I think the packages that have been
22 approved with respect to some of the defendant's
23 similarly situated co-defendants is relevant here because
24 some of the same considerations apply there. This
25 individual including -- as compared to individuals like

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1 Rafael Callejas, and Hector Trujillo, they're all
2 individuals who are prominent individuals, nationals of
3 other countries, people who held significant positions,
4 people who have significant assets and consistent
5 contacts abroad, significant travel abroad. This amount
6 is just still inadequate with respect to securing his
7 presence here.

8 THE COURT: Tell me what we know right now and
9 I am addressing this to all of you, including pretrial
10 services, what we know about Mr. Hawit's net worth in
11 Guatemala (sic).

12 MS. HECTOR: Well, what we know has been self-
13 reported from the defendant to pretrial services and I
14 believe it's in the realm of \$2 million. I understand
15 that some of that is tied up in property.

16 MR. WEDDLE: Your Honor, if I could just --

17 THE COURT: Hold on.

18 MS. HECTOR: Some of it is tied up in property
19 that the defendant's wife owns. The rest of it is
20 largely in businesses. I think there's a supermarket or
21 shopping center that according to the defendant are
22 heavily mortgaged. But again, that's self-reported.

23 And in addition to that, you know, we're
24 talking about someone who received \$100,000 dollars of
25 bribes and laundered that money. The bribes were

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1 received into his relative's account, including his wife.
2 Our view on that is, in part to hide where the money was
3 going. And I think that's significant here.

4 And again, as your Honor has previously noted,
5 we're also talking about someone who unlike the similarly
6 situated co-defendants that I just referred to, both of
7 whom were released on \$4 million bonds that were secured
8 by between a million to \$2 million of property and cash,
9 some of -- a lot of which I think came from foreign
10 locations but was brought into this courthouse.

11 You know, this defendant is also charged with
12 witness tampering and obstruction of justice, which those
13 defendants weren't charged with. This defendant is
14 charged in essentially two separate schemes. Those
15 defendants were charged in one scheme. I think those
16 factors are significant.

17 And I also think the movement we've seen here,
18 despite the protest of a complete inability to get any
19 movement suggests that there's room here for the
20 defendant to come to a bond that the government would be
21 agreeable to and the government feels could more
22 adequately secure both his appearance and decrease the
23 likelihood that he would engage in further obstructive
24 conduct because that obstructive conduct would be a
25 violation of the bond too and would also put, you know,

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1 whatever security the defendant posts at rest.

2 THE COURT: I think my most serious question at
3 this point is whether or not any of the assets and I know
4 we've talked about this a little but I have only gotten
5 statements, I don't really have any evidence of this,
6 whether the assets in Guatemala are in any way liquid,
7 whether they're all -- the properties are all mortgaged,
8 whether there's a -- what the situation is with the
9 properties, whether any of the assets from Guatemala
10 could be used by the defendant, if for example, he were
11 to flee or now for the bond. That's one of my major
12 concerns here.

13 I haven't seen any real evidence of what the
14 situation is there and I know that it's not always easy
15 to get but I am left mostly with hearsay about what
16 properties there are. The government has come forward
17 with its prima facie case, I suppose, showing that there
18 are properties there that are assets.

19 MR. WEDDLE: Your Honor, if I may?

20 THE COURT: But, you know, I am concerned.

21 MR. WEDDLE: The assets that are listed in the
22 pretrial services report were reported by me to pretrial
23 services.

24 THE COURT: Right.

25 MR. WEDDLE: So it's all self-reported, your

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1 Honor.

2 THE COURT: Yes.

3 MR. WEDDLE: All of it. And it's the best
4 information that we have. There's been no evidence
5 presented at any of the bail hearings that we have
6 appeared at, your Honor. The government has presented no
7 evidence. They've proceeded entirely by proffer, as have
8 we. And this is the best information that we have.

9 The government talks about the defendant's \$2
10 million net worth which really, I think, could easily be
11 misinterpreted, your Honor. The bulk of the assets that
12 make up this \$2 million figure are in the name of his
13 wife and half of the \$2 million figure is a piece of
14 property inherited by his wife. It's a piece of real
15 property and --

16 THE COURT: And you said she's not the sole
17 owner of that property or you're not sure?

18 MR. WEDDLE: I believe she is the sole owner.

19 THE COURT: Uh-huh.

20 MR. WEDDLE: I'm not a hundred percent sure
21 about that. I believe she is the sole owner of that
22 piece of property.

23 THE COURT: So that only goes to whether or not
24 the property was acquired potentially as a result of
25 bribes, not as to whether or not that's an asset, right?

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1 MR. WEDDLE: It was definitely not acquired as
2 a result of bribes. It was acquired decades prior to any
3 alleged bribe, your Honor.

4 THE COURT: Right. I think that's what you're
5 saying but --

6 MR. WEDDLE: As was their marital home, which
7 is also in the wife's name, solely in the wife's name.

8 THE COURT: Uh-huh.

9 MR. WEDDLE: And it was acquired decades before
10 any allegation of bribes. So --

11 THE COURT: Right, but my question really is
12 any of those -- are those assets in any way liquid? Can
13 any loan or mortgage or second mortgage be taken on any
14 of that property that would provide some security because
15 the problem has been at least until today that the bail
16 package was very light. I understand the \$50,000 but
17 that's not put up by -- it's not additional money that
18 came from the defendant. It's just moved from one pot to
19 another and I understand it may cause some problems,
20 but --

21 MR. WEDDLE: Well, your Honor, I completely
22 disagree. Two pieces of real property in Honduras, your
23 Honor, are not liquid. That's not liquid. The only way
24 that they could conceivably support the defendant's
25 flight is if the defendant's flight consisted of leaving

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1 the United States and going home to his marital home
2 where he's lived for decades. That's like the opposite
3 of any kind of successful flight. That's the most
4 obvious place to find him, if not on home detention with
5 his daughter on electronic monitoring as we've proposed,
6 your Honor.

7 So there's nothing about those properties that
8 are owned by his wife that would support flight. I, of
9 course, have talked to the family about generating money,
10 both for bail purposes and to fund a defense, your Honor,
11 and as I understand it, the Honduran government has taken
12 steps to seize or freeze those pieces of property.

13 THE COURT: Right. And if that's all true,
14 that's something the Court would take into consideration
15 but how do we find this out?

16 MR. WEDDLE: Your Honor, if I tried to go get a
17 mortgage tomorrow on this property -- I haven't been
18 indicted. I mean, this wouldn't all just generate cash.
19 I think, you know, the defendant has been indicted. The
20 Honduran government has taken steps to freeze assets.
21 They've been told not to move assets because obviously
22 that would cause problems. There are essentially two
23 pieces of property not owned by the defendant in
24 Honduras.

25 Neither of those pieces of property in any way

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1 could facilitate or support any risk of flight. There's
2 no real evidence of risk of flight, your Honor, except
3 for the fact that the defendant has lived in the same
4 place for decades and is an established member of the
5 community and that place happens to be in Honduras. It
6 just happens to be Honduras.

7 THE COURT: I'm sorry, I keep saying Guatemala.
8 Honduras, right.

9 MR. WEDDLE: So this is not --

10 THE COURT: Let me just ask the government --
11 hold on just one second.

12 MR. WEDDLE: Sorry.

13 THE COURT: What does the government know about
14 freezing of assets in Honduras?

15 MS. HECTOR: I frankly know nothing about that.
16 I just have -- I am hearing what defense counsel says but
17 I have no independent knowledge of whether that's
18 accurate or not. I will say that defense counsel keeps
19 referring to, well, this is property owned by his wife.
20 Well, okay, in some ways that suggests that she may have
21 a greater opportunity to, for example, take a loan
22 against inherited land from her family that's worth a
23 million dollars.

24 I could see that maybe someone who has been
25 indicted may not be able to go to a bank in Honduras and

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1 get a home equity loan with respect to his house. I
2 could see that that might not be a problem.

3 But the fact that defense counsel's
4 representing that the marital home and the land that
5 together is about \$1.7 million is just in his wife's
6 name, suggests that there might be something that can be
7 done there. I mean, certainly I think some of the other
8 co-defendants in this case have done similar things where
9 they take, you know, bank loans or collateralized bank
10 loans in a foreign country and get cash to bring to this
11 country.

12 And that's just one way -- that's just one way
13 that the defendant could theoretically secure this bond
14 more. Another way would be for Ms. Medrano be willing to
15 post both properties or for the defendant, who may have
16 other contacts or it seems to me, have other loose
17 familial relations in the United States to gather some
18 additional security because I think we have both here.
19 We have just the 240ish, thousand dollar property and we
20 have four suretors who are -- most of whom are sort of
21 straining the sort of financial -- financially
22 responsible to become a suretor standard.

23 I mean, remember one of them is a relatively
24 recent friend of his daughter who has never met the
25 defendant and makes a couple of hundred dollars --

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1 THE COURT: \$7,200 a year, about.

2 MS. HECTOR: Yea. Something that there's a
3 piece of -- I think the government has some concerns
4 about whether she should really be signing the bond,
5 whether she understands exactly the extent --

6 THE COURT: Well, she wouldn't be a key part of
7 the bond. The key part of the bond is Ms. Medrano and
8 Mr. Green, I believe.

9 MS. HECTOR: Yea.

10 THE COURT: And the \$50,000 --

11 MS. HECTOR: But the fact that the house that
12 she's thus far unwilling to post is according to her, co-
13 owned. Now this house was purportedly co-owned and
14 apparently it's not, but if that one still is actually
15 co-owned by her and a family member, that would be
16 problematic for the government to collect upon that if it
17 weren't posted for the bond, if it were just an asset of
18 hers and she was a signatory to the bond.

19 THE COURT: Do we know that it is co-owned, the
20 property --

21 MR. WEDDLE: I've been told that it is co-owned
22 with her brother, your Honor, the house that she resides
23 in. The other property, not the one that we proposed
24 posting.

25 MS. HECTOR: Who would also (indiscernible).

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1 MR. WEDDLE: Your Honor, I --

2 THE COURT: Right.

3 MR. WEDDLE: I have at least three responses to
4 the government's continued presentation here. One is,
5 they talk about other cases and other defendants in this
6 case. My understanding is that these other defendants
7 have negotiated bail packages that they agreed to with
8 the government. So it's absolutely not a relevant test
9 what those people agreed to because as --

10 THE COURT: It's not relevant to me, so you
11 don't need to argue that point.

12 MR. WEDDLE: The other thing is for other
13 defendants, I have no idea what those people's assets
14 are. So --

15 THE COURT: Right. I have to look at each
16 individual separately, I agree with you.

17 MR. WEDDLE: And in order for me to respond
18 fully to this argument, your Honor, and I would have to
19 get disclosure from the government on what the assets are
20 of all the other defendants who agreed to those other
21 packages because it may be that looking at those assets
22 show that their packages are even less of a proportional
23 amount of the assets at their disposal than the
24 defendant's. I don't know.

25 But in any event, talking about other

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1 defendants, I agree with your Honor, is irrelevant. And
2 repeatedly, essentially the entire presentation by the
3 government has talked about what suggests that there
4 could be more and speculation about there could be more
5 and Ms. Medrano could give more, and perhaps there could
6 be more generated from properties in Honduras. And there
7 could be more from here or there.

8 That is not the statutory test. That is not
9 the law. That is the way to talk about maximum amount of
10 conditions that the defendant can meet. That's not in
11 the test. The test that binds this Court is what are
12 the least restrictive set of conditions, reasonably to
13 assure the defendant's appearance.

14 The two main things that do that, your Honor,
15 are home detention with his daughter and his grandson on
16 electronic monitoring. Based on the finances of this
17 family, I think that they have moved heaven and earth.
18 To do more than that, your Honor, and people have stepped
19 forward to co-sign a bond.

20 It's more than enough under the statutory test
21 and it is inappropriate, your Honor -- it is
22 inappropriate for the government to invite speculation
23 about what more could be obtained if we just kept this
24 defendant locked up for longer.

25 It's been six weeks, your Honor. Six weeks.

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1 Sure, we could keep him locked up for another year.
2 Maybe more money would come forward. That is not the
3 test. That's coercion and it's not the test. So I would
4 invite your Honor not to indulge in that kind of
5 speculation and to apply the test.

6 Finally, your Honor, the government has talked
7 about their inability to recover on the personal
8 recognizance bond. The government started down this
9 road. They proposed a \$4 million personal recognizance
10 bond. And they told your Honor in this courtroom that
11 it's their normal policy to seek a bond that far exceeds
12 a defendant's net worth.

13 So apparently, it's their policy to seek a bond
14 that is unrecoverable and whatever the reasons for that
15 are, that's fine. I think it means something to have a
16 million dollar bond that you may or may not be able to
17 recover on because even for people who have few assets,
18 that's going to make their life fairly miserable if the
19 defendant flees.

20 So we've offered a million dollar bond. I
21 think it's substantial and meaningful. It's an extremely
22 meaningful condition that will reasonably assure the
23 defendant's appearance because the defendant therefore
24 has to not only think about the criminal risks he would
25 face from fleeing, the likelihood he would be caught,

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1 especially since apparently the place that he's most
2 likely to flee to is his marital home where he's lived
3 for decades in Honduras where he is -- was always
4 prominent and now is quite famous.

5 And he's have to think about the fact that
6 these people who stood up for him in his time of need are
7 going to be made miserable by the United States
8 government because of a bond that they had co-signed,
9 regardless of recoverability, your Honor. I think that's
10 an extremely important incentive for the defendant not to
11 flee. I think it's well more than what's required by the
12 statute and I think that he's been in jail long enough.

13 MS. HECTOR: Your Honor, if I may just move
14 onto a couple of points.

15 THE COURT: Uh-huh.

16 MS. HECTOR: One, first of all, the government
17 never stated that it was our policy to ask for a bond
18 amount that far exceeds the defendant's assets. If
19 anything, we stated that that's one of the considerations
20 that we think is relevant because if a bond amount is
21 significantly less than the defendant's assets then
22 presumably a defendant could flee, gather their assets
23 and sort of repay the suretors who lost money as a result
24 of the defendant's flight. That's all the point we were
25 making with respect to that analysis.

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1 Two, the government is certainly not asking
2 well, what more could he give just for a mental exercise?
3 We understand what the statute requires. The government
4 thinks that more than what is being proposed is required
5 to assure his presence.

6 With respect to the places that the defendant
7 could go to flee and the argument that the only place he
8 could go to flee would be his family home in Honduras, of
9 course that's not the case, right? I mean, someone could
10 flee to a host of different countries and presumably with
11 \$1.7 million worth of assets that may not be able to be
12 liquidated like that but certainly could be liquidated at
13 some point to support a life somewhere else. Of course
14 that's within the realm of possibilities.

15 But I think all of that being said, I think
16 we're still in a situation where the Court mentioned
17 something at the last hearing that I thought was
18 important which was that there was sort of a disconnect
19 given the defendant's net worth, largely held by his
20 wife, given his prominence, that there wasn't sort of an
21 amount of cash being put forth. That the only thing that
22 seemed even reachable was Ms. Medrano's two homes.

23 We're still in that situation. The only thing
24 that changed with respect to that is the defendant's
25 lawyers offered to remove \$50,000 from their retainer

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1 which as your Honor noted, is already a cost that's been
2 expended by the family and that (indiscernible) by the
3 defendant's flight.

4 With all that being said, the government still
5 believes that the defendant is bailable and the
6 government believes that the package that the government
7 thinks would be the least restrictive one and I do say
8 least restrictive one -- I mean, I think we've attempted
9 to take into account the defendant's net worth and
10 representations that defense counsel has made in sort of
11 coming up with that figure. The government still
12 believes that this is attainable by this defendant.

13 And I do think that there's something that begs
14 the question about why there aren't either additional
15 people or Ms. Medrano isn't worth -- isn't willing to but
16 part of the reason we have sureties is because you have
17 friends and family members who are saying I trust that
18 this person is going to still be here. I trust that
19 they're going to show up for court appearances. I'm
20 willing to state my financial future on that. And I think
21 we're still missing that.

22 MR. WEDDLE: Your Honor, if you would like to
23 accept co-signers who are citizens of Honduras and reside
24 in Honduras, I would be happy to have 100 co-signers co-
25 sign this bond.

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1 MS. HECTOR: Some of those co-signers may be
2 willing to post cash. If there were -- we've never
3 suggested as defense counsel suggests in this letter,
4 that we would only accept security from U.S.-based
5 suretors, there have been other cases of this where
6 someone has friends of family in Honduras that had assets
7 that are willing to transfer the assets to the United
8 States in order to secure a defendant's bond.

9 And if that's a new realization to defense
10 counsel, then we certainly would invite him to explore
11 that possibility to see if there could be further
12 security in the bond. The point is that those amounts
13 have some sort of moral suasion over the defendant. If
14 it's his friends and families in Honduras that are
15 willing to transfer an additional \$250,000 to the clerk
16 of court, and they're not U.S.-based persons, that is
17 something that the government would be open to.

18 THE COURT: Has anyone spoken to --

19 MR. WEDDLE: My letter, your Honor --

20 THE COURT: Excuse me. Has anyone spoken to
21 Ramol Hawit (ph.) about his willingness to sign the bond?
22 he's the co-owner of the property with Ms. Medrano.

23 MR. WEDDLE: I don't know, your Honor. I have
24 not. I believe --

25 THE COURT: I mean because that seems to be the

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1 only impediment to her signing --

2 MR. WEDDLE: Your Honor, I spoke to her. She
3 assured me he would not be willing to.

4 THE COURT: Okay.

5 MR. WEDDLE: And she's not willing to. So
6 that's where we are. She said she is willing to post one
7 of these properties.

8 THE COURT: Okay.

9 MR. WEDDLE: Your Honor, just to clarify one
10 thing. My letter said that the government had indicated
11 that they were not willing to accept suretors from
12 outside the United States. Believe me, I have spoken to
13 people in Honduras about obtaining cash. I've talked to
14 your Honor about their extraordinary efforts that they've
15 gone through not only to secure assets for bail and co-
16 signers for bail, but also to fund the defense.

17 So, you know, the government raised a lot of
18 speculation about my livelihood, your Honor, and how I
19 get paid. I would be happy to share the information with
20 your Honor in camera. Frankly, the only reason that I
21 put in my letter that this money was coming out of my
22 retainer was so that your Honor didn't get the sense that
23 we just had a bunch of cash lying around and here, you
24 know, after you had mentioned \$50,000 in cash, here's the
25 cash. This is cash that had been collected for my

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1 retainer for weeks, your Honor, and it finally came in
2 and instead, I have decided to put off my retainer for
3 the expedience of moving that money towards the bail.
4 It's still coming from all the same sources and they're
5 tapped out, your Honor. We've been trying to do this for
6 a long time.

7 THE COURT: Perhaps you would like to make an
8 in camera proffer on that.

9 MR. WEDDLE: I'd be happy to, your Honor.

10 THE COURT: All right. Any objection?

11 MS. HECTOR: No.

12 THE COURT: Okay. I'm just going to -- can I
13 clear the courtroom for a moment?

14 (Off the record)

15 THE COURT: Does pretrial services wish to be
16 heard?

17 PRETRIAL SERVICES OFFICER: Don't have any
18 (indiscernible).

19 THE COURT: Okay. And your recommendation was
20 release on a substantial bond, secured by property.

21 PRETRIAL SERVICES OFFICER: With location
22 monitoring.

23 THE COURT: With location monitoring. Okay.
24 And now we'll debate here today as to whether this is a
25 substantial bond. Would you prefer not to give an

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1 opinion on that?

2 PRETRIAL SERVICES OFFICER: Yes, your Honor.

3 THE COURT: Okay. I am going to take a two-
4 minute recess.

5 (Off the record)

6 THE COURT: The government has expert
7 investigators. The government has financial experts.
8 What do we know about Mr. Hawit's finances? Whether he
9 has assets elsewhere? And about whether or not the
10 government could put a lien on the property in Honduras
11 or whether there is -- whether that property is in fact
12 convertible easily into cash, something that could
13 finance either flight or reimbursed suretors.

14 MS. HECTOR: One second, your Honor.

15 (Pause)

16 MS. HECTOR: Your Honor, I will do my best to
17 answer your questions. I don't believe we're aware of
18 any assets of this defendant outside of Honduras. I know
19 that defense counsel has remarked that he believes that
20 he's owed some money from FIFA but we indicated that we
21 had some concern that FIFA may take the view and I'm not
22 speaking for FIFA but FIFA may take the view that he's
23 not entitled to that money given the charges in this
24 case. I don't know.

25 With respect to your second questions, are you

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1 asking whether -- what is the government's ability to put
2 a lien on property were the defendant to flee and we were
3 trying to collect or are you asking whether we have any
4 information about the defendant's ability to either
5 borrow money against or otherwise get money out of --

6 THE COURT: Both questions, the first is could
7 the defendant get, let's say a mortgage or a home equity
8 loan or the equivalent in Honduras and secondly, could
9 the government have priority? Could the government put a
10 lien on that property or somehow secure it the way it
11 could happen in other states?

12 MS. HECTOR: Right.

13 THE COURT: I mean this case is unusual in that
14 there's still a lot that's not known about the finances.
15 That could cut either way though because the government
16 has the burden of proof on risk of flight.

17 And the question I have in formulating my
18 individualized assessment of whether there's -- the
19 package is sufficient here is whether or not the net
20 worth that's attributed to Mr. Hawit through his wife,
21 which was apparently mostly in real estate and was
22 obtained through an inheritance and not through -- as a
23 result of criminal activity or bribes, whether that
24 property or money could be used to either reimburse
25 suretors or to assist in flight.

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1 And I haven't heard -- I have heard an
2 assertion that there may be -- that it's not possible to
3 get a mortgage at this point or get a loan against that
4 property. I've had proffers from counsel that it's -- as
5 to the difficulty and the variety of means that have been
6 used in order to fund the case so far.

7 So the question I have is what does the
8 government know about these assets and Mr. Hawit's
9 ability to turn them into liquid cash or as money?

10 MS. HECTOR: Well, one, I don't think we've
11 been provided by defense counsel, addresses or anything
12 specific as to the property other than the general
13 information that's in the pretrial services report.

14 Certainly in this case, there have been other
15 defendants who have been able to get bank loans against
16 property and assets in foreign countries that they can
17 then transfer cash to the United States for purposes of
18 supporting the bond.

19 So generally speaking, I think that's a
20 possibility. I can't talk to whether in this case, he
21 would be able to do that. I don't know whether those
22 inquiries have been made by defense counsel.

23 I will say that I think it is accurate that
24 it's the government's burden to prove a risk of flight by
25 a preponderance of the evidence. I don't know that it's

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1 then further the government's burden to make further
2 assertions of proof about the defendant's ability to get
3 assets out of Honduras or that sort of thing.

4 THE COURT: No, but I think the burden of proof
5 is to show that the conditions that have been offered at
6 this time are not sufficient to prevent the risk of
7 flight and if the Court finds the package to be
8 substantial and the government says well no, it's not
9 substantial, because there are other assets in Honduras,
10 and those assets are alienable in some way, then that
11 would go to your burden of proof.

12 MS. HECTOR: Right. So with respect to -- I
13 mean, first of all, just putting that aside for a second,
14 I think that the government is of the view that the
15 suretors have other assets in the United States that
16 could be posted.

17 THE COURT: You mean the one other house.

18 MS. HECTOR: The one other house. I believe
19 the defendant's son-in-law had some cash. In our
20 interview with him, I think he expressed that he had
21 about \$70,000 of cash. That's the defendant's son-in-
22 law.

23 THE COURT: Ex-son-in-law.

24 MS. HECTOR: Ex-son-in-law, one of the proposed
25 suretors.

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1 With respect to the other question of -- I've
2 never been -- in my time at the Office, I've never been
3 involved in a case where we have accepted foreign
4 property -- there have been times that foreign properties
5 have been put on a bond as sort of additional security,
6 when the security that was posted as part of the bond was
7 otherwise sufficient to make the government comfortable
8 that the risk of flight was ameliorated.

9 THE COURT: Uh-huh.

10 MS. HECTOR: I haven't been part of a case that
11 the bulk of the property has been foreign property and I
12 think that's because the government is of the view that
13 it's extremely difficult, if not impossible for the
14 government to collect on property that they put a lien on
15 or otherwise collect property that's in a foreign
16 jurisdiction and if that even were possible, I think the
17 amount of time and resources that would be expended to do
18 so would be probably inordinate. I am not sure that the
19 Marshal's Service would --

20 THE COURT: I don't think the Marshal Service
21 would do that. And they wouldn't be able to sell it.

22 Well, the difference now between what was
23 before me the last time I was here and what's before me
24 today is close to \$300,000 in security. We have \$50,000
25 plus the approximately -- in cash, assuming it arrives

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1 and \$240,000 in equity in the house, if you proposed it.

2 That is a substantial package and the question
3 is -- and I interpret that as being substantial within
4 the meaning of what was recommended by pretrial services
5 but also just in my own independent judgment, I think
6 that's substantial. The defendant between the \$300,000
7 and the \$500,000, I am not sure given the evidence that
8 is before me that makes such a substantial difference.

9 I am aware of the seriousness of the charges.
10 I'm aware of the -- you know, we've gone through the
11 nature of the charges, the fact that obstruction is a
12 serious crime and the fact that the purpose of bribery
13 often is to increase an individual's assets. And the
14 concern that the assets might somewhere be located in
15 Honduras, but the defendant has maintained and proffered
16 that there are no other sources of wealth available,
17 other than those disclosed. The government has been
18 conducting investigation for some time and isn't aware of
19 any more. That doesn't mean there isn't another asset
20 but at this point, I am not aware of any other assets
21 that he has that could be used at this time.

22 Home detention with electronic monitoring and
23 close supervision from pretrial services would provide
24 additional protections against the risk of flight. So
25 unless the government has anything further to add at this

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1 point --

2 MS. HECTOR: Just one thing, your Honor, if I
3 just may have a second.

4 (Pause)

5 MS. HECTOR: Your Honor, if I may and I am
6 sorry, I might have misspoken when I said that we're not
7 aware -- well, I'll explain -- that we don't have any
8 knowledge about money outside of Honduras.

9 As part of the information we have regarding
10 where some of the bribe money that the defendant is
11 alleged to have to have received ended up, we do have
12 information that between 2011 and 2013, approximately
13 500,000 in bribe money went into the defendant's wife's
14 account, one account in the wife's name in Panama and
15 then another account of his wife in Honduras.

16 So in the defendant's disclosure about his net
17 worth, I don't believe there's any disclosure about any
18 cash on hand in any bank accounts. I believe that
19 defense counsel made a representation at one of our
20 hearings that the defendant had a de minimis amount of
21 cash.

22 I'll also note that I believe that the
23 defendant's wife has a job as a consultant and there's no
24 indication about where money that she receives as part of
25 employment might be. I think that's relevant to the

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1 Court's consideration.

2 MR. WEDDLE: Your Honor, I think I -- sorry,
3 your Honor. I don't have the numbers right in front of
4 me. There are bank accounts. I don't think that they
5 have tens of thousands of dollars in them. I think that
6 the amounts -- the word I used was negligible. I mean, I
7 think that in this context, you kind of say do you have
8 thousands of dollars in bank accounts and the answer was
9 no. I can ask my client what he knows about bank
10 balances. Obviously, he's been locked up since December
11 3rd.

12 We did talk about orally, the defendant's
13 wife's salary and I don't remember what it was off the
14 top of my head but I can check but she makes less money
15 than he does. I think that in terms of salary -- again,
16 these are not wealthy people. I mean even when he was
17 working --

18 THE COURT: But we're talking about substantial
19 amounts of bribe money allegedly and that's I think the
20 government's --

21 MR. WEDDLE: That's 2012, your Honor.

22 MS. HECTOR: And I will say --

23 MR. WEDDLE: Yea, in 2012.

24 MS. HECTOR: -- I don't know the current status
25 of those accounts.

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1 THE COURT: Okay. Is there a way to find out?

2 MS. HECTOR: We've made inquiries to the
3 foreign government but we haven't received that
4 information as of yet.

5 THE COURT: And I take it they're not in a U.S.
6 bank, even in a foreign country. In other words, not
7 Citibank in Panama or --

8 MS. HECTOR: No, I don't believe so.

9 THE COURT: So at this time, the government has
10 no information about what happened to the money that was
11 traced that went into the bank account -- those two bank
12 accounts in Panama?

13 MS. HECTOR: No definitive information, your
14 Honor, no.

15 THE COURT: And that was 2012?

16 MS. HECTOR: 2011 and 2013. I think the point
17 that we're making is that with respect to the financial
18 disclosure, we do have reason to believe that there are
19 potentially accounts that are missing from this.

20 THE COURT: Was he asked to disclose his wife's
21 accounts? I assume pretrial service would ask for
22 disclosure of Mr. Hawit's wife's assets, as well?

23 MR. WEDDLE: Your Honor, if I could just --
24 none of the pretrial services officers who are here are
25 the ones that I spoke to about this, so maybe I should

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1 start.

2 When we first appeared before your Honor,
3 pretrial services had a very truncated amount of time to
4 interview the defendant.

5 THE COURT: Right.

6 MS. HECTOR: In my experience, normally
7 pretrial services would ask the defendant directly about
8 their finances. But we were a little bit rushed to get
9 in front of your Honor because the defendant came
10 essentially straight from the airport. So when I talked
11 to Mr. Calvi, the pretrial services officer, I said, "Did
12 you get down, you know, what his assets are?" And he
13 said, "I didn't have a chance to do it."

14 So the next morning I called and spoke to
15 another pretrial services officers, who I believe is also
16 named Calvi, a woman, and I said, these are his -- let me
17 tell you what his assets are and I told him what the
18 assets were. It wasn't a questioning. No one asked me
19 about bank accounts. I mean, I don't know the bank
20 balances. They're not significant. So I sort of just
21 didn't, you know, catalog them all. It's not --

22 THE COURT: I am not going to ask you were
23 aware of accounts in Panama but that obviously is the
24 consideration that --

25 MR. WEDDLE: Well, your Honor, it's in the

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1 indictment that there's an account in Panama. I mean,
2 frankly I would discount that account also because I
3 would have assumed given the indictment, that the
4 government already had bank records for that bank
5 account. I have received no discovery but I would assume
6 that even if there were money in that bank account, the
7 government would not be eager to use that as security
8 since according to the indictment, the proceeds of the
9 crime flow through that bank account.

10 So my client's been locked up since December
11 3rd. I don't think he has current information. I can
12 give you his estimate of what's in the Panama bank
13 account. But, you know, it has to be caveated by the
14 fact that he's been locked up for a while. But whatever
15 it is, it's less than \$10,000.

16 Would you like that, your Honor?

17 THE COURT: Yes.

18 MR. WEDDLE: My client estimates -- I said is
19 it less than \$10,000 and he said yes. He estimates less
20 than \$7,000.

21 THE COURT: Uh-huh.

22 MR. WEDDLE: He really doesn't have a firm
23 number.

24 THE COURT: And this is an account in his
25 wife's name?

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1 MR. WEDDLE: I believe -- yes, this is an
2 account in his wife's name in a Panamanian bank, right?

3 THE COURT: And has he disclosed all of his
4 accounts to pretrial services?

5 MR. WEDDLE: No, your Honor.

6 THE COURT: Are there more accounts that --

7 MR. WEDDLE: Yea, I mean I sort of filtered
8 this and I said, like these are his major assets. So the
9 early stages of my representation of this client, I asked
10 him about money that he has in his bank accounts, partly,
11 you know, with respect to funding a defense. And that
12 was several weeks ago, your Honor, but nothing was more
13 than \$10,000.

14 So it was of a magnitude that I didn't
15 catalogue. I can ask my client right now what he can
16 tell us about all bank accounts.

17 THE COURT: Okay.

18 MR. WEDDLE: Would you like me to do that, your
19 Honor?

20 THE COURT: Yes.

21 (Counsel and client confer)

22 MR. WEDDLE: Okay, your Honor. I got some
23 information about bank accounts. So there's this Panama
24 bank account which my client estimates to be less than
25 \$7,000. There are two bank accounts in Panama. I mean,

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1 not in Panama. I'm sorry, two bank accounts in Honduras.
2 And together, my client estimates that they total less
3 than \$10,000.

4 And he has an account -- he's unsure of the
5 official name of the bank but he essentially gets like a
6 pension from the university where he taught for many
7 years and that's deposited into an account that he thinks
8 of as the university bank. It's not actually the name of
9 the bank. But he estimates that those deposits are
10 about \$1,700 a month. And he uses that for living
11 expenses, you know.

12 THE COURT: Uh-huh.

13 MR. WEDDLE: So he doesn't carry a balance in
14 that account.

15 THE COURT: Right.

16 MR. WEDDLE: He estimates that his wife's
17 monthly income is about \$2,000. And she has another bank
18 account in her name that he believes has less than
19 \$10,000 in it. That's it.

20 THE COURT: Okay. Thank you. Does the
21 government have any questions?

22 MS. HECTOR: No, your Honor.

23 THE COURT: Okay. All right. Taking into
24 consideration all of the factors under the Bail Reform
25 Act, which I think we've gone over at great length in

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1 these several days of hearings, the seriousness of the
2 crime, the weight of the evidence, the individual
3 characteristics of the defendant and other issues, and
4 other factors under the Bail Reform Act, the
5 recommendations of pretrial services and the bail package
6 that's been presented, let me start by saying that the
7 package initially was very light. Of the suretors, only
8 Mr. Green, Fred Green, the ex-son-in-law, had a
9 substantial income and some assets. The cousin, who is
10 willing to put up a bond -- is that Hawit-Medrano --
11 initially wasn't willing post her house -- one house, the
12 house in which her son is living but now is willing to
13 post, a house worth \$240,000 in equity. The other
14 suretors have insubstantial income and no assets.

15 In addition, \$50,000 is being offered to be
16 deposited in the Court. That money was raised through a
17 variety of means, some of them requiring some ingenuity.
18 And that brings a total secured package of \$290,000,
19 coming primarily from one individual and the sureties who
20 are substantial are two in number, Mr. Green and Ms.
21 Medrano.

22 Before I give my ruling, I have one question as
23 to the assets of Mr. Green. I believe it was stated that
24 he has \$70,000 in the bank but I would like to verify
25 what his assets are, his net worth is. Does anybody --

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1 MS. HECTOR: Your Honor, I spoke with Mr. Green
2 at some length.

3 THE COURT: Uh-huh.

4 MS. HECTOR: My understanding is that he is a
5 real estate associate. He has an annual gross income
6 from that of \$150,000. He also owns properties that he
7 rents as investment properties with a partner. That as
8 thirteen properties, all residential. His estimate is
9 that they're worth about one million but because he has a
10 partner, his portion would be \$500,000. And he also has
11 another company that he uses that is solely his, the flip
12 properties. He gets about \$50,000 net annually from that
13 but it sounds -- it sounded like its only asset is one
14 property that's under contract to be sold in the next
15 thirty days that's worth about \$140,000. And that he's
16 had between a checking account and -- a business checking
17 account and only of the business that's only his and the
18 personal checking account, about \$70,000.

19 THE COURT: All right. So that there's -- he
20 has a substantial income and some money in the bank that
21 could be seized if there were flight and the government
22 could, I suppose try to claim his share in the real
23 estate partnership, although I don't know how the laws in
24 Florida work.

25 Has Mr. Green been asked if he would be willing

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1 to deposit any money in the court?

2 MR. WEDDLE: Yes, your Honor.

3 THE COURT: And he's not willing?

4 MR. WEDDLE: He's not willing.

5 THE COURT: But if Mr. Hawit were to flee, the
6 \$70,000 in the bank and all of his other assets would, of
7 course, be subject to seizure by the government.

8 MR. WEDDLE: Of course. And he understands
9 that, your Honor.

10 THE COURT: Okay. All right. So I find that
11 given the package which is now enhanced and in the
12 absence of any evidence from the government that there
13 are other active accounts that have not been reported at
14 this time that can be attributed to this defendant, in
15 other words, that his disclosure hasn't been complete, I
16 find that the package is sufficient at this time to
17 warrant his release under very strict conditions.

18 The conditions would be electronic monitoring
19 with home detention. He can only leave his home and
20 he'll be living with his daughter at an address that is
21 described in the pretrial services report, Lizette Hawit
22 Green. He can only leave it for attorney visits, court
23 appearances, medical appointments or emergencies,
24 religious services and activities approved by pretrial
25 services. His travel is restricted to the Eastern

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1 District of New York and the Southern District of
2 Florida, unless approved by pretrial services. He is to
3 surrender passports and make no new applications.

4 He is to have no contact with co-defendants or
5 co-conspirators unless in the presence of counsel. No
6 contacts with victims or witnesses. These suretors are
7 all guaranteeing all the conditions of the bond. He is
8 also subject to random home and employment visits. And
9 the bond is for \$1 million.

10 Are there any other conditions that either
11 party would like to impose at this time?

12 MS. HECTOR: Your Honor, yes. One, just
13 respectfully, your Honor, we are going to need to consult
14 with our colleagues about the possibility of an appeal.

15 THE COURT: Uh-hum.

16 MS. HECTOR: There is an additional condition
17 and we would also ask that given the closeness of this
18 call, that the defendant not be released until these
19 suretors sign the bond and that the property and the
20 other cash --

21 THE COURT: Right.

22 MS. HECTOR: -- is secured. You know, also
23 because I think there has been some back and forth about
24 suretors who said they're willing and then dropped out at
25 the last minute and I think that's important.

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1 With respect to the --

2 THE COURT: And so just to amplify that, the
3 release would be upon the signature of the suretors and
4 upon either a confession of judgment or whatever
5 procedure there is in Florida.

6 MS. HECTOR: Exactly. As well as the transfer
7 of the \$50,000.

8 THE COURT: Right. The deposit with the Court.

9 MS. HECTOR: Yes. With respect to the
10 conditions, the government would ask that there be a non-
11 association condition. That the defendant not directly
12 or indirectly associate or have contact with co-
13 defendants or any individual employed by or associated
14 with including through consulting agreements, the
15 following entities: any sports marketing company
16 identified in the indictment including Media World and
17 Traffic Group and any of their subsidiary or affiliate
18 entities, CONCACAF and any affiliated or constituent
19 entity, including but not limited to FENAFUTH, CONMOVAL
20 (ph.) and any affiliated or constituent entity, and FIFA
21 and any affiliated or constituent entity.

22 THE COURT: All right. So actually I will give
23 you the bond to attorneys, the bond to fill out the
24 conditions. He won't be released today but the
25 conditions will all be written.

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1 MR. WEDDLE: Your Honor, I just wanted to raise
2 one logistical issue. I'm not asking for a change in
3 what your Honor has ordered but in terms of the defendant
4 getting from New York to Florida --

5 THE COURT: Yea, and places in between for
6 purposes of travel.

7 MR. WEDDLE: Well, there's that but also the --
8 well, I would ask in the event, for example, there's a
9 court appearance here in Brooklyn and he's in New York,
10 that he be permitted to visit me in my office, which
11 happens to be in Manhattan, your Honor. That --

12 THE COURT: With permission of pretrial
13 services.

14 MR. WEDDLE: Okay.

15 THE COURT: I'm sure pretrial services will
16 approve his itinerary.

17 MR. WEDDLE: Fine. And I had a limited
18 conversation with pretrial services about how they
19 normally work this but since the defendant, you know, is
20 from Honduras, normally when he travels, even
21 domestically, within the United States, for purposes of
22 TSA, having a photo I.D., he would normally use his
23 passport for that. And so I am sure it's something that
24 we can work out with pretrial services. I think that
25 sometimes they just essentially like temporarily permit

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1 carrying the passport, just to get on the flight to Miami
2 and then turn it back over to pretrial in Florida. If
3 there's some other mechanism that can be worked out, so
4 he can actually get on a plane, great. We're amenable to
5 any of them. We support him surrendering his passport.
6 We're not quibbling with that condition of release, of
7 course.

8 But in the event there is a logistical hiccup,
9 I just wanted to raise it with your Honor so that we
10 could, for example, send a letter to your Honor to figure
11 something out so that he can get on a plane.

12 THE COURT: All right. We'll deal with it.
13 Does pretrial services have anything to add?

14 PRETRIAL SERVICES OFFICER: Your Honor, we have
15 an identification paper document that we issue to
16 defendants (indiscernible). We don't (indiscernible).

17 THE COURT: Right.

18 MR. WEDDLE: Perfect. If they could do that,
19 that's great.

20 THE COURT: Anything else from the government?

21 MS. HECTOR: No, your Honor. I think that's --
22 oh, is there a time frame for or do we just sort of wait
23 to --

24 THE COURT: We wait for the defendant to
25 fulfill all the conditions.

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1 MS. HECTOR: Okay.

2 THE COURT: Once those conditions are
3 fulfilled, and the government concurs, then he'll be
4 released. If there's a disagreement, then you'll come to
5 court but obviously he has to come to court to be
6 released though.

7 MS. HECTOR: Right. So we would just ask --

8 MR. WEDDLE: Okay.

9 MS. HECTOR: -- that defense counsel coordinate
10 with us, so that we can do the appropriate 475 to get the
11 defendant to court and review the confession of judgment
12 in that respect.

13 MR. WEDDLE: Yes, of course, your Honor. And I
14 anticipate since all of these co-signers are in Florida
15 that we can work out a procedure where they can sign in
16 front of a clerk in Florida and I'm sure that gets worked
17 out between the courts and as soon as we feel like we've
18 satisfied the conditions, we'll consult with the
19 government and accomplish the release. Thank you, your
20 Honor.

21 THE COURT: You can contact Jared Goldman, my
22 law clerk --

23 MR. WEDDLE: Thank you.

24 THE COURT: -- who knows the procedure for how
25 to get bonds signed in other states.

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1 MR. WEDDLE: Thank you, your Honor.

2 THE COURT: Okay. Anything else?

3 MS. HECTOR: No, and so just to be clear, the
4 Court wants us to fill this out and then provide it.

5 THE COURT: Yes, I want you both to agree that
6 all of the conditions are there --

7 MS. HECTOR: Yes.

8 THE COURT: -- legibly written.

9 MS. HECTOR: Great.

10 THE COURT: Okay. Anything else from pretrial
11 services?

12 PRETRIAL SERVICES OFFICER: No, your Honor.

13 THE COURT: Thank you all for sitting through
14 this.

15 MS. HECTOR: Thank you.

16 (Matter concluded)

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C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 23rd day of January, 2016.


Linda Ferrara

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