

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Crim. No. 20-54-LPS-1
	:	FILED UNDER SEAL
IMANUEL VILLALBA,	:	<i>unsealed</i> APR 01 2021
	:	
Defendant.	:	
	:	

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MEMORANDUM OPINION

January 8, 2021
Wilmington, Delaware

STARK, U.S. District Judge:

I. INTRODUCTION

Defendant, Imanuel Villalba (“Villalba” or “Defendant”), is a pretrial detainee awaiting trial on serious drug felonies which carry a statutory mandatory minimum sentence of 10 years incarceration. He alleges that the Federal Detention Center in Philadelphia (“FDC”) is subjecting inmates to escalating problems with plumbing and building access, preventing him from meeting with his attorney and preparing for trial. On that basis, he seeks pretrial release. It is unclear whether Villalba requests a reopening of his detention order under 18 U.S.C. § 3142(f)(2) or temporary release due to a “compelling reason” under 18 U.S.C. § 3142(i). Regardless of which basis Villalba’s motion is grounded on, the Court will deny it, for the reasons provided below.

II. BACKGROUND

On June 30, 2020, Villalba was charged in a criminal complaint with conspiracy to distribute and possess with intent to distribute 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) & 846. (D.I. 2) On August 20, 2020, Magistrate Judge Fallon held a hearing, at which Villalba did not contest detention. (*See* D.I. 52 Ex. 1 at 3) (“Detention Order” or “Det. Ord.”) Judge Fallon detailed her findings that supported the Detention Order. (*Id.*) On August 25, 2020, Villalba (and his co-defendant, Hayley Carello) was indicted on a charge of conspiracy to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a), 841(b)(1)(A), and 846. (D.I. 28)

On December 14, 2020, Villalba filed his pending motion. (D.I. 48) The government filed its opposition brief on December 22, 2020. (D.I. 52)

III. LEGAL STANDARDS

Based on the charge pending against Defendant, the law presumes that “no condition or combination of conditions of release will reasonably assure the appearance of the person [i.e., Defendant] as required and the safety of the community.” 18 U.S.C. § 3142(e)(3). It is Defendant’s burden to rebut this presumption. *See United States v. Carbone*, 793 F.2d 559, 560 (3d Cir. 1986).

In evaluating whether to detain a defendant pending trial, the Court is required to consider: (1) the nature and seriousness of the offense charged; (2) the weight of the evidence against the defendant; (3) the defendant’s character, physical and mental condition, family and community ties, past conduct, history relating to drug or alcohol abuse, and criminal history; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant’s release. *See United States v. Delker*, 757 F.2d 1390, 1398-99 (3d Cir. 1985) (citing 18 U.S.C. § 3142(g)). Applying these standards in August 2020, Judge Fallon entered the Detention Order. (Det. Ord. at 3)

Villalba’s motion potentially arises under two different provisions of Section 3142. First, 18 U.S.C. § 3142(f)(2)(B) provides that an order of pretrial detention may be reopened any time before trial “if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.” Second, and alternatively, § 3142(i) provides that a Court may order the “temporary release” of a pretrial detainee “to the extent that the judicial officer determines such release to be necessary for preparation of the person’s defense or for another compelling reason.”

IV. DISCUSSION

A. All Facts Originally Supporting Villalba's Detention Still Support Detention

At the conclusion of the detention hearing on August 20, Judge Fallon ordered Villalba detained, finding among other things:

The weight of the evidence is sufficiently strong. The Defendant waived a preliminary hearing, thus, there is probable cause to proceed with the charges. The Magistrate Judge signing the Criminal Complaint found probable cause for its issuance.

According to information provided to the court by Pretrial Services, Defendant, who is 21 years old, has a criminal history that includes drug offense arrests and several pending assault charges. The nature of the drug offense on which the Defendant is charged poses significant concern for the safety of others and the community if the Defendant is released. The court is not confident the Defendant would abide by any condition of pretrial release. The Defendant lacks familial, residential, community, property and employment ties to the District of Delaware. He was purportedly living in various motels with the co-Defendant prior to their arrests. Moreover, the Defendant's admitted daily marijuana use would impair his judgment such that there is no reasonable expectation he would comply with conditions of release. Furthermore these factors raise concerns about risk of flight.

The release of the Defendant would pose a danger to others and the community for the reasons set forth in the preceding paragraphs.

(Det. Ord. at 3)

All of the factors identified in the Detention Order as supporting pretrial detention continue to support detention. Indeed, as the government (correctly) notes, the motion "raises no new facts mitigating the risk [Defendant] poses to others in light of the seriousness of his offense and propensity for violence or his risk of flight. Rather, he asks this Court to reopen the bail hearing or to order his temporary release based solely on the circumstances of the general public health crisis generated by COVID-19 infections." (D.I. 52 at 9) As explained below,

Villalba has not demonstrated that the relief he requests is warranted under the governing legal standards.

B. No Material New Information Warrants Villalba's Release (§ 3142(f)(2)(B))

Villalba's motion suggests that "inmates are being deprived of running water and the use of toilets," that "inmates are subject to indefinite lock downs and quarantine," and that "the facility is experiencing dangerous rolling outbreaks of Covid-19." (D.I. 48 at 2) Even assuming (without deciding) these statements are true,¹ they do not constitute materially new information that alters the Court's conclusion that Villalba should remain detained pending trial.

While unfortunate, the number of COVID-19 cases at FDC Philadelphia is not material, new information that bears on whether conditions can be crafted that reasonably assure Villalba's appearance and the safety of other people and the community. The pandemic itself does not change Villalba's criminal history or the evidence that Villalba was engaged in dangerous drug-related activity. It is difficult, in light of that evidence, for new evidence to materially bear on the issue of adequate release conditions. The pandemic is not that type of evidence. *See generally United States v. Roeder*, 2020 WL 1545872, at *3 n.16 (3d Cir. Apr. 1, 2020) ("[T]he existence of some health risk to every federal prisoner as the result of this global pandemic does not, without more, provide the sole basis for granting release to each and every prisoner within our Circuit."); *United States v. Raia*, 954 F.3d 594, 597 (3d Cir. Apr. 2, 2020) ("[T]he mere existence of COVID-19 in society and the possibility that it may spread to a particular prison alone cannot independently justify compassionate release, especially

¹ The government suggests that "the plumbing issues result from those housed at the FDC flushing items down the toilet that cause flooding in other areas of the prison. When this occurs, the facilities department may temporarily shut off the water to remedy the issue." (D.I. 52 at 13 n.8)

considering BOP's statutory role, and its extensive and professional efforts to curtail the virus's spread.")

The record establishes that the Bureau of Prisons' ("BOP") efforts to contain the virus at the FDC have been adequate. (*See, e.g.*, D.I. 52 at 11-12) ("The present conditions of restricted social and legal visits and lockdown measures are not optimal, but they reflect the FDC's ongoing commitment to controlling the impact of COVID-19.") Therefore, the specter of COVID-19 at FDC Philadelphia does not rise to the level of material new information warranting Villalba's release at this time.

Villalba has not rebutted the presumption that no combination of conditions could reasonably assure his appearance at all further proceedings and the safety of other individuals and the community. No new information having a "material bearing" on that issue has been presented.

C. No Compelling Reason Warrants Villalba's Release (§ 3142(i))

To the extent Villalba's motion requests temporary release pursuant to 18 U.S.C. § 3142(i), that request fares no better. The Court's analysis above with respect to Section 3142(f)(2)(B) applies equally to Section 3142(i). Villalba does further suggest that the combined effect of the pandemic and the other alleged conditions at the FDC are giving him "significant problems meeting with his counsel and reviewing discovery while housed at the Federal Detention Center." (D.I. 48 at 2) As he concedes, however, "attorney visits have resumed." (*Id.*) The Court, therefore, agrees with the government that "[w]hile it would be ideal for Mr. Villalba to have wider access to his attorney and discovery, there will be substantial time for Mr. Villalba to review his discovery in preparation for a potential trial." (D.I. 52 at 14) Thus the Court will, again, deny Villalba's motion.

D. Villalba Has Failed to Propose a Reasonable Release Plan

There are additional deficiencies to Villalba's motion. He asks that the Court release him to the custody of his friend, but the Court agrees with the government that Villalba's friend is not a proper custodian nor located at a proper residence. (*See* D.I. 52 at 14-16) Thus, again, the Court will deny Villalba's motion.

V. CONCLUSION

In the Court's view, Villalba can be safely detained at FDC Philadelphia. Because all of the reasons that supported his detention in August remain supportive of such detention at this time, the Court will deny Villalba's motion for pretrial release.

An appropriate order follows.

