IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
**Magistrate Judge Kathleen M. Tafoya**

Criminal Action No. 14-cr-00448-RBJ

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. HAROLD HENTHORN,

Defendant.

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ORDER OF DETENTION

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THIS MATTER came before the Court for a detention hearing on November 12, 2014.

The government is requesting detention in this case. The defendant argued for release on bond conditions. The government called witness Dana Chamberlin, an auditor with the United States Attorney's Office. The defendant presented no witnesses. In making my findings of fact, I have taken judicial notice of the information set forth in the court's docket of proceedings and the Pretrial Services Report, as well as the evidence presented in court and the arguments of counsel.

In order to sustain a motion for detention, the government must establish that there is no condition or combination of conditions which could be imposed in connection with pretrial release that would reasonably assure (a) the appearance of the defendant as required or (b) the safety of any other person or the community. 18 U.S.C. § 3142(b). The former element must be

established by a preponderance of the evidence, and the latter requires proof by clear and convincing evidence.

The Bail Reform Act establishes the following factors to be considered in determining whether there are conditions of release that will reasonably assure the appearance of the defendant and the safety of the community:

(1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person including–

(A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug and alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

18 U.S.C. § 3142(g).

Weighing the factors set out in the Bail Reform Act, I find the following:

The defendant has no criminal history and has lived in Colorado for a substantial length of

time. He owns property in Highlands Ranch, Colorado and in Grand Lake, Colorado. There is no evidence of drug or alcohol abuse. The defendant has a nine year old daughter from the union of the defendant and the alleged victim, her mother, who is in the care of her godparents at the present time. Pretrial Services reported that a guardian ad litem has been appointed for the child as part of a state court proceeding.

The defendant has been indicted by the grand jury finding probable cause on a charge of murder in the first degree, involving the alleged premeditated murder of his second wife, Toni Henthorn. The charges carry a sentence of mandatory life imprisonment upon conviction and a possible death sentence. The government argued that the defendant's first wife, Sharon Henthorn, also died as a result of an "accident" wherein she and the defendant were alone in a remote location and a car fell on her. Evidence at the hearing revealed that the defendant collected proceeds from life insurance involving the death of his first wife of approximately $496,000.00. There was approximately $4.5 million dollars of insurance on his second wife, Toni Henthorn, the alleged victim in this case at the time of her death. The evidence presented was that within a day and a half of Toni Henthorn's death, the defendant had caused a claim to be made against one of the three life insurance policies in effect on Toni Henthorn. The defendant argued that he personally had not caused any claims to be made on any of the insurance policies and had, instead, requested that the insurance companies not pay any benefits until the investigation into his wife's death was complete. No insurance company has paid life insurance benefits with respect to the death of Toni Henthorn as of the date of the hearing. The U.S.

Attorney argued that under the circumstances, the falling death of Toni Henthorn may not have been the defendant's first premeditated murder. The state allegedly has re-opened its investigation of the defendant's first wife's death.

The defendant has had no verifiable employment or income in the last fifteen years. Nevertheless, the witness testimony revealed that he has access to approximately $1.5 million dollars of liquid assets in bank accounts and investment accounts. The auditor testified that in 2014, the defendant transferred $500,000.00 of these liquid assets into accounts managed by his brother, Robert, which had previously contained less than $5,000.00 each. As to each of the two accounts, the money deposited by the defendant was transferred several times from account to account and as to both accounts the auditor lost track of the money after several unexplained transactions. The court views these monetary maneuverings to be an attempt to hide the money invested, especially in light of the fact that ultimately the auditor has not been able to trace the ultimate repository for the funds. These multiple transfers are completely at odds with the defendant's version of the transfer of the money to his brother as merely "investing in his brother's business." Instead, the court views these transfers as an attempt to hide $500,000.00 in cash assets which could be used should the defendant decide to flee the country. Thereafter he could have access to the funds, especially if he were to locate to a country without an extraditions treaty with the United States. The court finds that the defendant has more than adequate liquid funds, not counting the hidden $500,000.00, to arrange surreptitious flight from the pending charges and has hidden half a million dollars to fund his living expenses once he flees.

After considering all appropriate factors, I conclude that the preponderance of the evidence establishes that no condition or combination of conditions of release will reasonably assure the appearance of the defendant as required. Further, I conclude by clear and convincing evidence that no condition or combination of conditions of release will reasonably insure the safety of other persons, including the defendant, or the community.

IT IS HEREBY ORDERED that the defendant is committed to the custody of the Attorney General or their designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; and

IT IS FURTHER ORDERED that the defendant is to be afforded a reasonable opportunity to consult confidentially with defense counsel; and

IT IS FURTHER ORDERED that upon order of this Court or on request of an attorney for the United States of America, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with this proceeding.

DATED this 12th day of November, 2014.

BY THE COURT:

Kathleen M. Tafoya
United States Magistrate Judge