

- B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3)** (*narcotics, firearm, other offenses*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:
- (1)** an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
 - (2)** an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;
 - (3)** an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
 - (4)** an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; **or**
 - (5)** an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

C. Conclusions Regarding Applicability of Any Presumption Established Above

- The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis. (*Part III need not be completed.*)

OR

- The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

Part III - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:

- By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
- By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

- Weight of evidence against the defendant is strong
- Subject to lengthy period of incarceration if convicted
- Prior criminal history
- Participation in criminal activity while on probation, parole, or supervision
- History of violence or use of weapons
- History of alcohol or substance abuse
- Lack of stable employment
- Lack of stable residence
- Lack of financially responsible sureties

- Lack of significant community or family ties to this district
- Significant family or other ties outside the United States
- Lack of legal status in the United States
- Subject to removal or deportation after serving any period of incarceration
- Prior failure to appear in court as ordered
- Prior attempt(s) to evade law enforcement
- Use of alias(es) or false documents
- Background information unknown or unverified
- Prior violations of probation, parole, or supervised release

OTHER REASONS OR FURTHER EXPLANATION:

The court finds that the government has not met its burden on risk of flight, as Mr. Calderon is a life-long resident of this area, has no ties elsewhere, and has few resources to enable him to flee. The court finds that the government has, however, met its burden on dangerousness to the community.

Mr. Calderon is charged with conspiracy to commit enterprise affairs through a pattern of racketeering. He originally consented to detention and recently moved for release, mainly based on the COVID-19 crisis. Although he suffers from obesity, which the court understands indicate that he is at a higher risk for serious illness if he contracts the virus, the court finds that in the particular circumstances here, this factor does not overcome the dangers inherent in his release.

The government has overwhelming evidence that Mr. Calderon is a high-ranking member of the Latin Kings, holding a prominent leadership position ("Inca") in one chapter of the gang. He is alleged to have been an active participant in the conspiracy to murder Angel Roldan and to have conspired to commit several other murders. He personally intimidated witnesses, employing a firearm. He directed and ordered violence against members of the gang. He distributed guns and drugs in connection with gang activities. He is facing a substantial sentence. He has a criminal record, including convictions for possession of a firearm, subsequent offense, for which he served 3-4 years in state prison, possession of a firearm, for which he served 18 months, and assault and battery, for which he served 6 months. In the past he has been convicted of crimes that were committed while he was on probation for other crimes. In this case, he was participating in gang activities while under court supervision and wearing a gps bracelet.

Defense counsel made a strong presentation at the hearing that the charges against Mr. Calderon may be exaggerated and that many of his inculpatory statements were puffery. Nevertheless, at this stage of the case, there is certainly probable cause to find that the charges are warranted. Given Mr. Calderon's troubled history and the nature of the violent criminal gang of which he was undoubtedly a high-ranking member, and the uncontroverted evidence that he was committing serious crimes, even if not to the extent the government contends, the court cannot find that there are conditions that would ameliorate the danger to the community if he were released.

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's 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. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: 05/01/2020

/s/ Page Kelley

United States Magistrate Judge