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ROGER CUSICK CHRISTIE (01)

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	)	C.A. No. 10-10355
	)	
Plaintiff-Appellee,	)	D.C. No. 1:10-cr-00384-SOM
	)	(District of Hawaii)
vs.	)	
	)	DEFENDANT'S MEMORANDUM
ROGER CUSICK CHRISTIE (01),	)	IN SUPPORT OF <b>FRAP 9(a)</b>
	)	<b>APPEAL &amp; APPENDICES A-D;</b>
Defendant-Appellant.	)	<b>CERTIFICATE OF SERVICE</b>
_____	)	

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**DEFENDANT’S MEMORANDUM IN SUPPORT OF FRAP 9(a) APPEAL**

**1. Jurisdiction & Bail Status.** The government filed an indictment on June 24, 2010, accusing defendant-appellant Roger Cusick Christie and thirteen codefendants of violating 18 U.S.C. §§841 and 846. District Court Docket Number (Doc. No.) 1. Mr. Christie was thereafter arrested. The government filed a motion to detain all of the defendants on July 9, 2010. Doc. No. 24. On July 13, 2010, a magistrate judge granted the government’s motion as to Mr. Christie. Doc. No. 93. The magistrate judge filed a written detention order on July 16, 2010, memorializing his ruling. Doc. No. 113. Mr. Christie promptly appealed the magistrate judge’s ruling to the district court. Doc. No. 98. The district court affirmed the magistrate judge’s ruling at a hearing conducted on July 16, 2010, Doc. No. 99, and it filed a written order on July 20, 2010, Doc. No. 121. Mr. Christie timely filed a “FRAP Rule 9(a)” notice of appeal on July 20, 2010. Doc. No. 124. The district court has

jurisdiction under 18 U.S.C. §3231. This Court has jurisdiction under 18 U.S.C. §3145 and 28 U.S.C. §1291. Mr. Christie is not on bail, but is detained in FDC Honolulu.

**2. Facts.** The government is prosecuting Mr. Christie for operating The Hawaii Cannabis Ministry (“THC Ministry” or “Ministry”) and advocating the use of cannabis as a sacrament for religious purposes. The government accuses Mr. Christie and his codefendants of using THC Ministry as a front for the illegal distribution of marijuana. Doc. No. 1. The indictment does not accuse Mr. Christie or any of the other defendants of any sort of violent behavior. Id. Mr. Christie had operated THC Ministry openly — indeed, the THC Ministry website quite plainly states that the purpose of the Ministry is to further the peaceful, religious cultivation and use of cannabis as a sacrament — for nearly a decade before federal agents arrested him in connection with this matter on July 8, 2010. The government has been aware of Mr. Christie’s beliefs and activities in this regard for many years. Why it delayed ending the Ministry’s activities for so long has yet to be explained.

Upon the arrest of the defendants, the government moved to detain all of them on July 9, 2010, using a form detention motion. Doc. No. 24. Pretrial Services recommended that Mr. Christie be released on a \$50,000 bond, that he be subjected to home detention and electronic monitoring, and that he not possess illicit drugs or be in the presence of illicit drug users. Doc. No. 121 (Appendix B), p. 2. On July 13,

2010, the magistrate judge conducted a detention hearing, at which Mr. Christie agreed to follow the conditions of release proposed by Pretrial Services. *Id.*, p. 3. The government argued that Mr. Christie should be detained because he might re-offend if released and, therefore, he posed a danger to the community. *Id.*; Doc. No. 24. In support of its position, the government noted that Mr. Christie did not shut down the Ministry after the execution of search warrants in March 2010 resulted in the seizure of marijuana and cash. Doc. No. 121, p. 3. The magistrate judge agreed, granted the government's motion, and ordered that Mr. Christie be detained. Doc. No. 113 (Appendix A).

At the detention hearing, the magistrate judge's oral ruling tersely granted the government's motion, did not indicate what burden of proof the magistrate judge used, and did not explicate the magistrate judge's rationale. The magistrate judge ordered the government to prepare a written order.

In the written detention order prepared by the government, the magistrate judge found "by clear and convincing evidence" that Mr. Christie "is a danger to the community and that no condition or combination of conditions will assure the community's safety." Doc. No. 113 (Appendix A) at 2. In support of "this conclusion," the written order notes: (1) the Ministry is allegedly the "centerpoint" of the charged cultivation and distribution offenses; (2) the Ministry was Mr. Christie's "sole livelihood and means of support"; (3) in March 2010, searches

resulted in the seizure of two pounds of marijuana and \$20,000 (agents did not, however, arrest Mr. Christie or his girlfriend and codefendant, Sherryanne L. St. Cyr, at that time); and (4) in July 2010, another search resulted in the seizure of one pound of marijuana and \$5,000, which suggested that Mr. Christie continued to cultivate and distribute cannabis through the Ministry after the March search. *Id.*, pp. 2–3. “[I]t is therefore reasonable to believe,” the written order surmises, “that if left on his own in the Hilo area (where all of the crimes alleged in the Indictment occurred) and consistent with his prior conduct set forth above, [Mr.] Christie would again recommence similar Ministry activities and thereby commit further crimes.” *Id.*, p. 3. The magistrate judge’s written order does not explain why a set of conditions — such as home detention, electronic monitoring, association restrictions, random searches, drug testing, and the like — could not assuage the perceived threat of recidivism.

Mr. Christie urged the district court to reconsider the magistrate’s detention order. Doc. No. 98. The government filed a memorandum in opposition, urging the district court to affirm the magistrate judge’s ruling because the chance of recidivism posed a danger to the community. Doc. No. 111. The district court conducted a hearing on July 16, 2010, Doc. No. 116 (Appendix C), and issued a written order affirming the magistrate judge’s detention ruling on July 20, 2010, Doc. No. 121 (Appendix B). Prior to the hearing, Pretrial Services submitted a revised report to the district court, flip-flopping, recommending that Mr. Christie be detained. *Id.*, p. 4.

In its written order, the district court essentially relied on the same grounds as the magistrate judge did to detain Mr. Christie, albeit with a more thorough analysis. The district court ruled that the rebuttable presumption in favor of detention set forth in 18 U.S.C. §3142(e)(3) had not been overcome. Doc. No. 121 (Appendix B), pp. 9–10. The district court ruled that Mr. Christie’s assertions that he would abide by the proposed conditions of home detention, electronic monitoring, and restraining from use of illicit drugs and from associating with illicit drug users were not sufficient to “defeat the presumption.” *Id.*, p. 10. The district court further ruled that the charged offense was “serious” because it carried a maximum sentence in excess of 10 years, *id.*, pp. 10–13; that the weight of the evidence against Mr. Christie was “considerable,” citing the marijuana and cash seized in March and in July and several wire-tapped telephone conversations, *id.*, pp. 13–15; that release posed “a serious risk to the community given the likelihood that [Mr. Christie] would continue to traffick marijuana,” again citing the marijuana and cash seized in March and then again in July, *id.*, pp. 15–16; and, finally, that the history and characteristics of Mr. Christie reflected that, while he maintained “significant ties” to the community and had no significant criminal history, he was nonetheless a “leader” of the Ministry and “has long advocated the use of marijuana,” *id.*, pp. 16–18. The district court concluded that the first three factors weighed in favor of detention, while the fourth factor was in equipoise or tipped slightly in favor of detention. *Id.*, pp. 10–18.

The district court further concluded that no set of conditions would reasonably assure the safety of the community. *Id.* pp. 18–19. On this point, the district court merely reasoned: “Although the proposed conditions of release in the [Pretrial Services Report] are strict, they depend on Defendant’s good faith compliance to be effective and therefore do not adequately assure the safety of the community in this instance.” *Id.*, p. 18.

All of Mr. Christie’s codefendants have been released on bail. Doc. Nos. 27–29, 91–93. They are charged with the same or, in some cases, even more serious crimes than he is. Doc. No. 1. Ms. St. Cyr, who has been released on bail, is alleged to have been Mr. Christie’s “business partner” in the Ministry, a joint signatory on the safe deposit box from which cash was seized, present during at least one of the searches that resulted in the seizure of marijuana, “deeply involved” in the distribution of marijuana, and caught on numerous wire-tapped conversations making alleged drug deals. Doc. No. 111, pp. 2–16. The conditions of her release, no less than those proposed for Mr. Christie, depend upon her “good faith compliance,” but yet have been deemed sufficient to assure the safety of the community. It is difficult, if not impossible, to explain the arbitrary result of detaining Mr. Christie on the basis of the charged offenses — and the contraband and evidence seized in the March and July searches and wire-tapped conversations supporting the charges — but yet to have not detained Ms. St. Cyr or any of the other alleged coconspirators.

3. **Argument.** When someone is accused of a crime “[i]n our society, liberty[,]” not detention, “is the norm” prior to trial.<sup>1</sup> United States v. Salerno, 481 U.S. 739, 755 (1987); see also Motamedi, 767 F.2d at 1405 (“federal law has traditionally provided that a person arrested for a noncapital offense shall be admitted to bail”). The Bail Reform Act (“the Act”) thus generally “mandates release of a person facing trial under the least restrictive condition or combination of conditions.” Id. The Act provides that the accused “shall” be placed on pre-trial release, “*unless* the [court] determines that such release ... will endanger the safety of any other person or the community.” 18 U.S.C. §3142(b) (emphasis added). Even if there is a risk that the accused might pose a danger to the community if released, the Act *still* generally requires conditional release. See 18 U.S.C. §3142(c).

In large part the Supreme Court upheld the constitutionality of the Act precisely because it only “allows a federal court to detain an arrestee pending trial if the Government demonstrates by clear and convincing evidence after an adversary hearing that no release conditions will reasonably assure the safety of any other person and the community.” Salerno, 481 U.S. at 741 (quotation marks and ellipsis

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<sup>1</sup> “[T]he applicable standard of review for pretrial detention orders is one of deference to the district court’s factual findings,” which should not be set aside unless clearly erroneous; however, this Court conducts an “independent examination of the facts, the findings, and the record” in determining whether to uphold a pretrial detention order. United States v. Motamedi, 767 F.2d 1403, 1405-1406 (9th Cir. 1985).

omitted). Simply “demonstrat[ing] probable cause to believe that the charged crime has been committed by the arrestee,” even if it is nominally said to be a ‘crime of violence,’ is “not enough.” *Id.* at 750. As is relevant here, the Act thus *precludes* pre-trial detention unless substantial evidence supports the Government’s claim that the defendant committed a drug-related crime carrying a maximum sentence of ten years or more *and* clear and convincing evidence establishes that “no condition or combination of conditions will reasonably assure ... the safety of any other person and the community.” 18 U.S.C. §3142(e) and (f)(1); accord *Salerno*, 481 U.S. at 750.

In some cases, a “rebuttable presumption arises” from the charge alone that “no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community.” 18 U.S.C. §3142(e)(3). This presumption arises “if the judicial officer finds that there is probable cause to believe that the person committed ... an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act[.]” 18 U.S.C. §3142(e)(3)(A). Because Mr. Christie and his codefendants are charged with violating 21 U.S.C. §§841(a)(1) and 846, this presumption applies in the present matter. However, the presumption does not relieve the government of its burden to establish the criteria for detention by clear and convincing evidence.

A district court does not have “unbridled” discretion to detain an accused prior to trial under the Act. *Id.* at 742. Rather, the Act expressly “specifie[s] the

considerations relevant to” this decision. Id. These factors are: (1) the nature and circumstances of the charged offense; (2) the weight of the Government’s evidence against the accused; (3) the accused’s history and characteristics; and (4) the nature and seriousness of the danger posed by the accused’s release. See 18 U.S.C. §3142(g); Salerno, 481 U.S. at 742-743. By its terms, the rebuttable presumption set forth in 18 U.S.C. §3142(e)(3) is only relevant as to the first of these factors — but again, it does not supplant the government’s burden to establish dangerousness or risk of flight by clear and convincing evidence. This is because a rebuttable presumption that the defendant is a danger and flight risk because he is accused of a serious offense does not having anything to say about the weight of the Government’s evidence against the accused, the accused’s history and characteristics, or the nature and seriousness of the danger actually posed by a particular defendant’s release.

Release on bail should be denied under the Act only in “rare circumstances” and only for “the strongest of reasons.” Motamedi, 767 F.2d at 1405, 1407; see also Salerno, 481 U.S. at 747; United States v. Townsend, 897 F.2d 989, 933-934 (9th Cir. 1990). Because the presumption of innocence remains in full force in such a pre-trial setting (even in cases involving §3142(e)(3)’s rebuttable presumption), any doubt regarding the propriety of release must be resolved in the accused’s favor. See 18 U.S.C. § 3142(j) (“[n]othing in this section shall be construed as modifying or limiting the presumption of innocence”); Motamedi, 767 F.2d at 1405 (“[d]oubts

regarding the propriety of release should be resolved in favor of the defendant”); Townsend, 897 F.2d at 933-934. Which is why the danger to the community that a defendant allegedly poses must be “*demonstrable*,” not simply speculative. Salerno, 481 U.S. at 750 (emphasis added). Accordingly, only “[w]hen the Government proves by clear and convincing evidence that an arrestee presents *an identified and articulable threat* to an individual or the community” may a judge “disable the arrestee from executing that threat” by detaining him prior to trial. Id. at 751 (emphasis added). With these precepts in mind, Mr. Christie assesses the four relevant factors under the Act.

***The nature and circumstances of the charged offense.*** As noted above, the rebuttable presumption set forth in 18 U.S.C. §3142(e)(3) initially weights this factor in favor of detention because Mr. Christie — as, indeed, are *all* of the defendants — is accused of a crime subject to a maximum sentence of at least 10 years of imprisonment. Several things, especially when taken together, rebut the §3142(e)(3) presumption, however.

First among these is that *all* of the other defendants in this matter have been released on bail. Each of these codefendants are charged in Count 1 along with Mr. Christie of having engaged in a conspiracy in violation of 21 U.S.C. §§841 and 846. Doc. No. 1, pp. 2–3. Each of these codefendants are also jointly charged with Mr. Christie of substantive cultivation and possession offenses, in violation of

21 U.S.C. §841, for cultivating and possessing 284 marijuana plants. Doc. No. 1, pp. 3–5. Other codefendants, but not Mr. Christie, are individually charged with additional substantive cultivation and possession counts, one of whom is accused of cultivating and possessing 1,108 marijuana plants, and another of whom is accused of cultivating and possessing 856 plants; five other codefendants are also charged with cultivating and possessing fewer plants. Doc. No. 1, pp. 5–11. All of the other defendants in this matter, however, have been released on bail.

The nature and seriousness of the charges against Mr. Christie, therefore, do not justify the presumption of detention. This is because his codefendants, accused of the very same crimes and, in some cases, accused of even *greater* criminal conduct, have not been detained but have been released.

The only explanation that the government, magistrate judge, and district court have provided for treating Mr. Christie differently than his codefendants is the government’s theory that he resumed cultivating and distributing cannabis through the Ministry after the March 2010 searches and the seizures. This explanation, however, fails to differentiate Mr. Christie from his codefendants, and, most notably, from codefendant Sherryanne L. St. Cyr. She, too, according to the government, resumed her active participation in the cultivation and distribution of cannabis after the March 2010 search and seizure. Doc. No. 111. Indeed, according to the government, Ms. St. Cyr was “deeply involved” in the alleged distribution of

cannabis and remained so after the March 2010 search and seizure. *Id.* at pp. 12–15. Just as Ms. St. Cyr’s conduct between the March 2010 search and seizure and her arrest in July has not sufficed to detain her, neither does Mr. Christie’s similar conduct during that time period justify his detention.

Neither the district court’s nor the magistrate judge’s analysis included any explanation for why the nature and circumstances of the alleged offenses weighed in favor of *detaining* Mr. Christie, but weighed in favor of *releasing* Ms. St. Cyr, who is accused of being his business partner and of being as deeply involved in the Ministry’s alleged illegal distribution of marijuana as he is. Nor why the nature and circumstances of the alleged offenses weighed in favor of detaining Mr. Christie, but not codefendant Richard Bruce Turpen, who, *in addition* to the same conspiracy and substantive counts alleged against Mr. Christie, is *also* accused of cultivating and possessing over 1,100 additional marijuana plants. Doc. No. 1, pp. 2–6.

The notion, moreover, that Mr. Christie (and Ms. St. Cyr’s) alleged resumption of cultivation and distribution activity after the March 2010 search and seizure constitutes a reasonable indicator of how either would behave if released on bail is deeply flawed. Even though agents seized some marijuana and cash in March 2010, they did *not* arrest Mr. Christie, or any of the other defendants in this matter. Mr. Christie’s status from March 2010 until his arrest in July 2010 was, therefore, not even akin to someone who has been ‘arrested but released pending investigation.’

Having the government seize your property, without also arresting you, suggests just the opposite of what the government posited in the district court. It does not send a clear, unambiguous demand to stop engaging in any particular conduct. It, quite to the contrary, suggests that whatever conduct led to the possession of the seized contraband did not justify further action beyond taking away the contraband.

While released on bail, however, Mr. Christie would be under *a court order*, he would be *subject to a set of strict conditions*, and he would be *supervised* by a Pretrial Services Officer. None of these things were present during the time period between the March and July searches. Using Mr. Christie's conduct between March and July to predict what his behavior would be on release, under a court order and supervision, subject to conditions backed by threat of revocation, is no different (and no less misguided) than eating an apple to predict the taste of an orange.

The future marijuana use and distribution that the government fears could easily be minimized to an extent that would reasonably assure the community's safety by conditions such as electronic monitoring, home detention, random searches or home visits by an agent for Pretrial Services, and random drug testing. Given that any condition that is imposed on release is backed up by a court order and by the threat of revocation, it simply is not the case that compliance with the conditions of release depend only on Mr. Christie's good faith. Moreover, the district court's "good faith compliance" rationale for finding that no set of conditions will do is one

that — to the extent it accurately describes the situation (which it doesn't) of a pretrial releasee subject to supervision by a Pretrial Services officer, a court order mandating compliance, and the threat of revocation of release — applies to *any* defendant who is released on bail subject to conditions of release.

The presumption that the nature and circumstances of the charged offenses justify detaining Mr. Christie is rebutted and this first factor therefore weighs in favor of release on bail, subject to appropriate conditions.

*The weight of the evidence.* Where, as here, the charged offense is a non-violent one, this factor is the least significant. See Motamedi, 767 F.2d at 1408. A court accordingly errs in relying too much on the government's "assertions of guilt." Id. This is because the Act does not condone the district court in making any pretrial determination of guilt in order to justify detaining a presumptively innocent accused. See id. Rather, this factor, as well as the first (nature-and-circumstances-of-the-charged-offense) factor, "may be considered only in terms of the likelihood that the person ... will pose a danger to any person or to the community." Id. The charged offense, even if supported by "strong" evidence, simply does not pose "an identified and articulable threat to any individual or the community" that cannot be assuaged by appropriate conditions that are designed to curb any likelihood that Mr. Christie would resume the cultivation and possession of cannabis if released on bail.

Lessening the weight of the government's evidence in terms of the likelihood that Mr. Christie would pose a danger to the community is that there is no allegation here that Mr. Christie was actually involved in *pushing* marijuana on the street. Unlike a typical drug-trafficking organization, the alleged activities of THC Ministry were limited. According to the government, cannabis was only provided as a sacrament to those who came to the ministry or who otherwise asked for it and for the Ministry's guidance. Doc. No. 111. Moreover, much, if not all, of the Ministry's advocacy in favor of cannabis's sacramental use is protected speech under the First Amendment. As such, the alleged "trafficking" in this case is a far cry from what it usually is in a typical drug-trafficking conspiracy or in other drug-related cases involving a minimum ten-year maximum sentence.

The district court's assessment of this factor focuses solely on the weight of the evidence as it goes to *guilt*. The district court concluded that this factor "weighs strongly" in favor of detention because the weight of the evidence against Mr. Christie was "considerable." Doc. No. 121, pp. 13–15. The district court's review of this factor, however, consisted solely of listing the amount of marijuana and cash seized from Mr. Christie (and Ms. St. Cyr) and describing the inculpatory wire-tapped conversations that conspirators made. *Id.* The district court's analysis is unpersuasive because, in addition to the reasons mentioned above in connection with the first factor, the district court did not assess the weight of the government's

evidence as it related to the question of recidivism and the danger that Mr. Christie would re-offend if released. When it relies on the threat of danger posed by release, vague assertions of concern about the defendant reoffending are not sufficient. Rather, the government must establish and the district court must find that the defendant “presents an identified and articulable threat to an individual or the community.” Salerno, 481 U.S. at 751. The government did not provide clear and convincing evidence of such a threat, nor did the district court find that Mr. Christie posed such a threat.

This factor, then, does not justify detention.

*The defendant’s history and characteristics.* The government has not proffered any criminal (or, for that matter, any type of personal) history of Mr. Christie indicating he would pose a danger of committing crimes while on release under a court order and Pretrial Services’ supervision. This factor, instead, weighs heavily in Mr. Christie’s favor. He has very strong ties to the community, having been a Hilo resident for the past 25 years, who has run for mayor twice. He has also served honorably in the military. He has no history of violence in the community. As a consequence of his arrest and the initiation of this prosecution, Mr. Christie now recognizes that the federal government prohibits the use of marijuana. And if released on bail, he has asserted that neither he or nor the Ministry would violate a

court order setting reasonable conditions upon him, including a restriction on the cultivation, use, and possession of marijuana.

The district court's reliance on Mr. Christie's alleged leadership role does not serve to justify detention. This is because Ms. St. Cyr is alleged to have had a similar leadership role. Yet, Ms. St. Cyr has been released on bail. So, too, should Mr. Christie.

*The nature and seriousness of the danger release poses.* This final factor also does not weigh in favor of detention. The nature of any recidivism of the alleged offenses involving Mr. Christie consists of cultivating, possessing, and distributing (to those who seek it) small amounts of cannabis. The legalization of cannabis use and possession, while polemical, has many supporters across a wide spectrum of our society. Cannabis is hardly the most dangerous drug to use, and its effects on society, as well as those who use it, are not comparable to most other drugs that are typically abused, such as alcohol or methamphetamine. Accordingly, the nature and circumstances of the danger release poses — where the only danger that has been raised is that the defendant might engage in the cultivation, possession, and distribution of cannabis — is not particularly great or weighty here.

Moreover, there is no reason that a set of conditions of release could not assuage whatever risk of recidivism exists. Home detention and/or electronic monitoring would restrict Mr. Christie's activities and his ability to have any effect,

deleterious or otherwise, on the community. Random visits and searches by the Pretrial Services officer (or other agent of Pretrial Services) supervising him would further deter him from engaging in any sort of illegal behavior and would reasonably assure that any such behavior would be discovered before it could have a significant effect on the community. Random drug tests would also assuage any perceived danger posed by Mr. Christie's release. The government has never (nor, for that matter, have the magistrate judge or the district court ) explained why such conditions could not reasonably assure the safety of the community from Mr. Christie if he were released on bail. As has been noted, the idea that such conditions are inadequate because they rely solely on Mr. Christie's "good faith compliance" is a false one and, to the extent it is accurate at all, is a circumstance that applies to *any* defendant seeking pretrial release. Also as noted, the district court's reliance on Mr. Christie's alleged resumption of cultivation and distribution activities after the March 2010 searches is no indicator of how he would behave if released under a court order, subject to supervision and conditions of release that are backed by the threat of revocation of release. And to any extent that the post-March conduct might be an indicator of future dangerousness, it is one that applies equally to Ms. St. Cyr, as it does to Mr. Christie. Yet, the magistrate judge released Ms. St. Cyr.

Justice Jackson's admonishment that "[i]mprisonment to protect society from predicted but unconsummated offenses is ... unprecedented in this country and ... fraught with danger of excesses and injustice" bears recalling here:

Honoring the presumption of innocence is often difficult; sometimes we must pay substantial social costs as a result of our commitment to the values we espouse. But at the end of the day the presumption of innocence protects the innocent; the shortcuts we take with those whom we believe to be guilty injure only those wrongfully accused and, ultimately, ourselves.

Throughout the world today there are men, women, and children interned indefinitely, awaiting trials which may never come or which may be a mockery of the word, because their governments believe them to be "dangerous." Our Constitution ... can shelter us forever from the evils of such unchecked power. .... But it cannot protect us if we lack the courage, and the self-restraint, to protect ourselves.

Salerno, 481 U.S. at 766-767 (Marshall, J., dissenting) (quoting, *inter alia*, Williamson v. United States, opinion in chambers (1950) (Jackson, J.)). We are not yet in the world of Minority Report. And until we are, a detention order that, like those issued by the district court and magistrate judge in this case, issues without any other basis than a speculative, subjective, unsubstantiated belief that a defendant might commit a crime while on pretrial release should be reversed.

**4. Conclusion.** Clear and convincing evidence does not consist of speculations and unfounded inferences piled atop each other. Rather, clear and convincing evidence is evidence leaving no substantial doubt in the decision-maker's

mind and proving that the proposition at issue is not merely probable, but *highly* probable. See NINTH CIRCUIT MODEL CIVIL JURY INSTRUCTION 5.2. Even with the aid of the presumption set forth in 18 U.S.C. §3142(e)(3), the government failed to adduce clear and convincing evidence establishing that it is *highly* probable that no set of conditions could reasonably assure that Mr. Christie would not engage in the cultivation, possession, and distribution of cannabis if released on bail. The Bail Reform Act requires a reasonable assurance, not a *guarantee*, of safety. In denying Mr. Christie bail, the magistrate judge and district court appear to have required him to provide and establish some sort of a *guarantee*, not just reasonable assurances (which is all the Act requires), that he would not cultivate, possess, or distribute cannabis. Defendant-appellant ROGER CUSICK CHRISTIE urges this Court to reverse the district court's and magistrate's arbitrary detention orders and order that he be released, subject to appropriate conditions, on bail pending trial.

DATED: Honolulu, Hawaii, July 22, 2010.

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### **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on July 22, 2010.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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ORIGINAL

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII  
JUL 16 2010  
at 11 o'clock and 05 min. 9 a.m.  
SUE BEITIA, CLERK

Attorneys for Plaintiff  
United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 10-00384 SOM-01
	)	
Plaintiff,	)	ORDER DETAINING DEFENDANT
	)	ROGER CUSICK CHRISTIE
vs.	)	WITHOUT BAIL
	)	
ROGER CUSICK CHRISTIE,	(01) )	
_____	)	

ORDER DETAINING DEFENDANT ROGER  
CUSICK CHRISTIE WITHOUT BAIL

This Court, the Honorable Kevin S.C. Chang, U.S. Magistrate Judge presiding, held the detention hearing for defendant Roger Cusick Christie ("Christie") on July 13, 2010. Appearances were as follows: Michael K. Kawahara, Assistant U.S. Attorney, for the Government, and Matthew C. Winter, Assistant Federal Public Defender, for Christie (who was also present in court).

Christie stands charged in the Indictment with three counts of marijuana trafficking offenses, each of which, if he is convicted, carry a statutory penalty of 5 - 40 years imprisonment. See 21 U.S.C. 841(b)(1)(B). As such, and given the

probable cause determination by the grand jury in returning the Indictment, the Bail Reform Act's rebuttable presumption (see 18 U.S.C. 3142(e)(3)(A)) that no condition or combination of conditions will assure defendant's appearance or the safety of the community is in effect with respect to Christie.

This Court has considered the matters contained in the Pretrial Services Report ("PSR") dated 7/13/10, including its recommendation that Christie be released on a \$50,000 bond and be subject to home detention at his residence in Hilo, HI.

However, based upon the matters contained in the PSR and called to the Court's attention during the hearing, this Court finds by clear and convincing evidence that Christie is a danger to the community and that no condition or combination of conditions will assure the community's safety. The reasons this Court comes to this conclusion are as follows:

(1) as charged in the Indictment, Christie's THC Ministry (hereinafter "Ministry") is alleged to be the centerpoint and focus of his charged marijuana manufacturing and trafficking activities;

(2) as indicated in the PSR, Christie advised Pretrial Services that "he has been operating [the] THC Ministry for the past ten years. He declined to provide his income, but informs he puts all of his earnings back into the ministry". In short, the Ministry has been Christie's sole livelihood and means of

support for a considerable period of time.

(3) as further indicated in the PSR, when officers searched the Ministry and Christie's residence on March 10, 2010, approximately two pounds of marijuana and almost \$20,000 was seized. Neither Christie nor co-defendant Sherryanne St. Cyr were arrested at that time.

(4) as further indicated in the PSR, when officers searched the Ministry and Christie's residence four months later on July 8, 2010, approximately one pound of marijuana and \$4,000-5,000 of cash was seized. In other words, it appeared that Christie decided to recommence the Ministry's trafficking activities sometime subsequent to the searches on March 10, 2010.

(5) it is reasonable to believe that if left on his own in the Hilo area (where all of the crimes alleged in the Indictment occurred) and consistent with his prior conduct set forth in (4) above, Christie would again recommence similar Ministry activities and thereby commit further crimes.


In view of the foregoing, and pursuant to 18 U.S.C. 3142(h)(2), it is hereby ordered and adjudged as follows:

(1) Defendant Christie is hereby committed to the custody of the Attorney General for confinement in a corrections facility separate, to the greatest extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;


(2) Defendant Christie shall be afforded reasonable opportunity for private consultation with counsel;

(3) On further order of this Court or on request if an attorney for the Government, the person in charge of the corrections facility in which Christie is confined deliver him to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: Honolulu, Hawaii, JUL 16 2010.

  
\_\_\_\_\_  
KEVIN S.C. CHANG  
United States Magistrate Judge

APPROVED AS TO FORM:

  
\_\_\_\_\_  
MATTHEW C. WINTER  
Assistant Federal Public  
Defender

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	Cr. No. 10-00384 SOM (01)
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
ROGER CUSICK CHRISTIE	(01),)	
	)	
Defendant.	)	
_____	)	

ORDER DENYING DEFENDANT’S MOTION FOR REVOCATION OF DETENTION ORDER

BACKGROUND

Roger Cusick Christie (“Defendant”) is the founder and leader of the THC Ministry, which is located in Hilo, Hawaii. See Defendant’s Memorandum in Support of his Motion for Revocation of Detention Order (“Defendant’s Motion Mem.”) at 2. Defendant has been the leader of the THC Ministry for the past decade. Id.

On June 24, 2010, Defendant was charged in a sealed indictment (“Indictment”) with three counts: (1) conspiracy to manufacture, distribute, and possess with the intent to distribute 100 or more marijuana plants; (2) manufacturing approximately 284 marijuana plants; and (3) possession with the intent to distribute approximately 284 marijuana plants. Id.<sup>1/</sup>

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<sup>1/</sup> There are fourteen defendants charged in the Indictment.

On July 8, 2010, Defendant, as well as other co-defendants, were arrested in Hilo. Id. On July 9, 2010, the United States of America ("Government") filed a motion to detain Defendant without bail ("Government's Motion to Detain").<sup>2/</sup> The same day, Defendant appeared before United States District Judge J. Michael Seabright for arraignment on the Indictment. Id. at 3. At the arraignment hearing, Defendant pled not guilty as to all charges. Id. Also, due to the Government's Motion to Detain, a detention hearing was scheduled for July 13, 2010, before Magistrate Judge Kevin S.C. Chang.

Prior to the detention hearing, Defendant was interviewed by the Office of Pretrial Services ("Pretrial Services"). On July 13, 2010, Pretrial Services issued a report ("PSR") which recommended, inter alia, that Defendant (1) be released on an unsecured bond of \$50,000, (2) that he abide by home detention and electronic monitoring, and (3) that he not possess illicit drugs or be in the presence of illicit drug users or traffickers. See PSR at 4-5.

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<sup>2/</sup> The Government's Motion to Detain pertained to all fourteen defendants, but the other thirteen defendants have since been released on bail. At the hearing on this motion, the Government represented that although the other co-defendants have been released on bail, Defendant Christie should be detained because he is the leader of the THC Ministry and was more extensively involved in the alleged criminal activity. See 7/16/10 Tr. 14:15-15:2 (rough draft of transcript) ("Tr.").

Magistrate Judge Chang held a detention hearing on July 13, 2010.<sup>3/</sup> At the hearing, Defendant's counsel argued that Defendant should be released in accordance with the PSR because Defendant has agreed to abide by all of the proposed conditions, and also agreed that if he continued to work at the THC Ministry there would not be illicit drugs (including marijuana) on the premises or in the possession of any individuals with whom Defendant would or could have contact. Defendant's Motion Mem. at 4.

The Government opposed the recommendation in the PSR, and asserted that Defendant should be detained pending trial.<sup>4/</sup> Among other things, the Government explained at the detention hearing that even after the Drug Enforcement Agency ("DEA") removed marijuana and other contraband from the Ministry and Defendant's residence during warranted searches on March 10, 2010, marijuana was discovered during followup warranted searches of the Ministry and his residence on July 8, 2010, which were concurrent with his arrest.

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<sup>3/</sup> As part of its de novo review of the proceedings below, the Court has listened to an audio recording of the detention hearing before Magistrate Judge Chang.

<sup>4/</sup> As an alternative basis, the Government argued that Defendant should be released to the Mahoney Hale half-way house, located on Oahu. However, at the hearing on this motion, both counsel agreed that the Mahoney Hale half-way house would not be appropriate. See Tr. 11:20-21, 19:14-20:2.

After reviewing the record and considering the arguments of counsel, at the hearing Magistrate Judge Chang found that Defendant presented a danger to the community. In addition, Magistrate Judge Chang found that the conditions set forth in the PSR do not adequately or properly address the risk to the community, and that there were no conditions that could address the risk to the community. As a result, Magistrate Judge Chang denied Defendant's request that he be released on bail pending trial. Magistrate Judge Chang directed the Government to prepare the written order.

On July 14, 2010, prior to the entry of Magistrate Judge Chang's written order, Defendant filed a "Motion for Revocation of Detention Order Pursuant to 18 U.S.C. § 3145(b) and Motion to Release Defendant on the Bail Conditions Proposed By Pretrial Services" ("Defendant's Motion for Revocation").

On July 15, 2010, the Government filed an opposition to Defendant's Motion for Revocation ("Opp'n").

Prior to the hearing on Defendant's Motion for Revocation, Pretrial Services prepared a Supplemental Pretrial Services Report ("Supp. PSR"), which revoked its previous recommendation, and instead recommended that Defendant be released to Mahoney Hale half-way house, located on Oahu. The Supplemental PSR noted, however, that due to overflow Defendant would not be able to be housed in Mahoney Hale for 4-6 weeks.

Supp. PSR at 2. At the hearing on this motion, both counsel agreed that release to Mahoney Hale would not be appropriate in this case.

The Court held a hearing on Defendant's Motion for Revocation on July 16, 2010. At the hearing, Defendant's counsel explained that, although the Government (pursuant to Magistrate Judge Chang's direction) had prepared a draft detention order for his review, he had not approved the form of the proposed written order because it was more detailed than Magistrate Judge Chang's oral ruling on July 13, 2010. The Court, however, reminded Defendant's counsel that written orders often contain a more detailed explanation of a court's ruling. Nevertheless, because this Court reviews motions to revoke detention orders de novo, both parties agreed that the hearing could proceed without the Magistrate's written order first being entered. Following oral arguments by counsel, this Court orally denied Defendant's Motion for Revocation.

After the hearing, Magistrate Judge Chang's written order was filed ("Detention Order"). In the Detention Order, Magistrate Judge Chang stated the following reasons, inter alia, as a basis for his decision:

(1) as charged in the Indictment, [Defendant's] THC Ministry is alleged to be the centerpoint and focus of his charged marijuana manufacturing and trafficking activities;

(2) as indicated in the PSR, [Defendant] advised Pretrial Services that "he has been operating [the] THC Ministry for the past ten years. He declined to provide his income, but informs he puts all of his earning back into the ministry." In short, the Ministry has been [Defendant's] sole livelihood and means of support for a considerable period of time;

(3) as further indicated in the PSR, when officers searched the Ministry and [Defendant's] residence on March 10, 2010, approximately two pounds of marijuana and almost \$20,000 was [sic] seized. Neither [Defendant] nor his co-defendant Sherryanne St. Cyr were arrested at that time;

(4) as further indicated in the PSR, when officers searched the Ministry and [Defendant's] residence four months later on July 8, 2010, approximately one pound of marijuana and \$4,000-5,000 of cash was [sic] seized. In other words, it appeared that [Defendant] decided to recommence the Ministry's trafficking activities sometime subsequent to the searches on March 10, 2010;

(5) it is reasonable to believe that if left on his own in the Hilo area (where all of the crimes alleged in the Indictment occurred) and consistent with his prior conduct set forth in (4) above, [Defendant] would again recommence similar Ministry activities and thereby commit further crimes.

Detention Order at 2-3.

#### **STANDARD OF REVIEW**

When the district court acts on a motion to revoke a magistrate's pretrial detention order, it should engage in de novo review of the contested order. United States v. Koenig, 912 F.2d 1190, 1192-93 (9th Cir. 1990). The Court must "review the evidence before the magistrate" and any additional evidence proffered by the parties "and make its own independent

determination whether the magistrate's findings are correct, with no deference." Id. at 1193.

#### **APPLICABLE LAW**

Under the Bail Reform Act of 1984 (the "Act"), defendants must be released pending trial unless the Court finds that no condition or combination of conditions will reasonably assure their appearance at trial or the safety of the community. 18 U.S.C. § 3142(e); see also United States v. Hir, 517 F.3d 1081, 1086 (9th Cir. 2008).<sup>5/</sup>

Where, as here, there is probable cause to believe that the defendant committed a charged offense which is punishable under the Controlled Substances Act by a penalty of 10 years or more, a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the appearance of the defendant and the safety of the community.<sup>6/</sup> 18 U.S.C. §

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<sup>5/</sup> In the present case, the Court need not address whether Defendant is a flight risk because the Government only seeks to detain Defendant on the grounds that he is a danger to community, to which the Court agrees. See United States v. Fortna, 769 F.2d 243, 249 (5th Cir. 1985) (observing that under § 3142(e), "the lack of reasonable assurances of either the defendant's appearance or the safety of others or the community is sufficient; both are not required" (emphasis in original)).

<sup>6/</sup> A federal grand jury's return of an indictment, based upon probable cause, will independently trigger the Act's rebuttable presumption. United State v. Vargas, 804 F.2d 157 (1st Cir. 1986). Defendant stands charged in the Indictment with three counts of marijuana trafficking offenses, each of which, if he is convicted, carry a statutory penalty under the Controlled Substances Act of 5-40 years imprisonment. See 21 U.S.C. §

(continued...)

3142(e); see also United States v. Rueben, 974 F.2d 580, 586 (5th Cir. 1992). In Rueben, the Fifth Circuit explained:

The rebuttable presumption of § 3142(e) shifts to the defendant only the burden of producing rebutting evidence, not the burden of persuasion; however, the mere production of evidence does not completely rebut the presumption. In making its ultimate determination, the court may still consider the finding by Congress that drug offenders pose a special risk of flight and dangerousness to society.

Rueben, 974 F.2d at 586; see also Hir, 517 F.3d at 1086.

In determining whether there are conditions of release that will reasonably assure the safety of any other person and the community, the court shall consider the four factors listed in 18 U.S.C. § 3142(g): (1) the nature and circumstances of the offense charged, including whether the offense involves a controlled substance; (2) the weight of the evidence against the person; (3) the history and characteristics of the person, including the person's character, physical and mental condition, family and community ties, employment, financial resources, past criminal conduct, and history relating to drug or alcohol abuse; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release. 18 U.S.C. § 3142(g). As noted above, even after the presumption is rebutted, the presumption "remains in the case as an evidentiary

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<sup>6/</sup>(...continued)  
841(b)(1)(B).

finding militating against release, to be weighed along with other evidence relevant to factors listed in § 3142(g).'" Hir, 517 F.3d at 1086 (citing United States v. Dominguez, 783 F.2d 702 (7th Cir. 1986) (involving drug trafficking)); see also United States v. Martir, 782 F.2d 1141, 1144-45 (2nd Cir. 1986) (holding that even after a defendant charged with drug trafficking rebuts the statutory presumption, the court must continue to give the presumption weight in deciding whether the defendant should be detained prior to trial).

A finding that a defendant is a danger to any other person or the community must be supported by "clear and convincing evidence." 18 U.S.C. § 3142(f)(2)(B). The risk of continued drug trafficking on bail constitutes a risk to the community. Rueben, 974 F.2d at 586.

### **DISCUSSION**

After reviewing the evidence as a whole, the Court concurs with Magistrate Judge Chang's determination that Defendant must be detained pending trial because he poses a danger to the community, and no condition or combination of conditions will reasonably assure the safety of the community.

#### **I. The Rebuttable Presumption**

In this case, Defendant has failed to overcome the presumption that he is a danger to community because he has produced insufficient evidence to indicate that he will not

continue to engage in drug trafficking if released on bail pending trial. His main argument appears to be that he will agree to stop using and trafficking drugs, however this promise to comply with the law is insufficient to defeat the presumption of danger to the community. See Rueben, 974 F.2d at 587 (finding that the defendants had failed to rebut the presumption that they were a risk to the community where the government presented substantial evidence to show that defendants had continuously engaged in the trafficking of drugs for several years); see also United States v. Tortora, 922 F.2d 880, 886 (1st Cir. 1990) (observing that release conditions contained "an Achilles' heel . . . [where] virtually all of them hinge on the defendant's good faith compliance").

Accordingly, because the presumption has not been rebutted, and because the Government has come forward with evidence establishing that Defendant poses a risk to the community, detention pending trial is proper in this instance.

## **II. Weighing the § 3142(g) Factors**

Even had Defendant rebutted the presumption, weighing the factors of § 3142(g) the Court finds that the Government has come forward with clear and evidence that Defendant poses a danger to the community.<sup>7/</sup>

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<sup>7/</sup> Although Magistrate Judge Chang's oral ruling did not mention the clear and convincing standard, in the Detention Order  
(continued...)

**A. The Nature and Circumstances of the Offense Charged**

The nature of the offense weighs strongly in favor of detention, as the distribution of drugs is a serious offense. See United States v. Townsend, 897 F.2d 989, 994 (9th Cir. 1990) (finding that conspiring to defraud the government was a serious offense because it was comparable to violence or the distribution of drugs). Although Defendant seems to argue that only violent crimes are serious and warrant detention, the distribution of drugs is a serious offense. See 18 U.S.C. § 3142(g)(1) (specifically requiring the court to consider whether the offense involves "a controlled substance"); see also United States v. Acevado-Ramos, 755 F.2d 203, 207 (1st Cir. 1985) (noting that the concept of "dangerousness" under the Act includes the concern that a defendant may commit a crime while released on bail (cited with approval in United States v. Windsor, 785 F.2d 755, 756-57 (9th Cir. 1986)); United States v. Leon, 766 F.2d 77, 81 (2nd Cir. 1985) (noting that the harm to society caused by drug trafficking is encompassed within Congress' definition of "danger" in the Act). Indeed, it is for this reason that the Act

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<sup>7/</sup>(...continued)

he found that the Government had come forward with clear and convincing evidence that Defendant poses a risk to the community. See Detention Order at 2. Even had Magistrate Judge Chang not expressly applied the clear and convincing standard, reviewing the decision de novo, this Court now finds that the Government had come forward with clear and convincing evidence that Defendant poses a risk to the community.



charged with conspiracy to import and possess large quantities of marijuana was appropriate).

Accordingly, this factor weighs strongly in favor of detention.

**B. The Weight of the Evidence Against the Person**

"The weight of the evidence against" Defendant is considerable. 18 U.S.C. § 3142(g)(2). The Court recognizes that "the weight of the evidence is the least important of the various factors." United States v. Motamedi, 767 F.2d 1403, 1408 (9th Cir. 1985). Nevertheless, the weight of the evidence against the person remains a factor as the statute requires that the Court consider the evidence against the person.

Upon review of the evidence presented, the Court finds that the Government has presented clear and convincing evidence that, due to evidence against Defendant and the crimes charged, he poses a danger to the community. The Court finds the evidence that was discovered during two warranted searches of the Ministry and Defendant's residence particularly relevant.

On March 10, 2010, federal law enforcement officers searched the Ministry, Defendant's residence, and a safety deposit box rented by Defendant and co-defendant Cyr at the Hilo branch of American Savings Bank. During this search, about 12 live marijuana plants, marijuana seeds, and various liquids in vials suspected to contain marijuana by-products (as tinctures





arrest.<sup>9/</sup> See Supp. PSR at 2 ("Given the Court's concerns about the potential for the defendant's continued involvement with THC Ministry and the continued sale and/or distribution of marijuana, it does not appear appropriate to permit the defendant to return to the island of Hawaii at this time."); see also Reuben, 974 F.2d at 587 (noting that the defendants had not produced evidence that "they will not continue to engage in drug trafficking if released on bail pending trial").

Accordingly the Court finds that this factor weighs strongly in favor of detention.

**D. The History and Characteristics of the Person**

Defendant maintains significant ties to his local community, as he has been a resident of Hilo for the past twenty-five years. Further, he has no recent criminal history, and the criminal history he does have amounts to a deferred prosecution for promoting a detrimental drug in 1992.

On the other hand, Defendant has been the leader of the THC Ministry for over a decade and has long advocated the use of marijuana. Moreover, in October 2009, Defendant opened the "Hawaii Cannabis College," which was intended to teach people how to grow and cultivate marijuana. Opp'n at 21. The classes included "lighting, cloning, fertilizing, harvesting, curing, and

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<sup>9/</sup> As discussed supra, approximately two pounds of marijuana and \$21,494 were recovered on March 10, 2010, and approximately one pound of marijuana and \$5,512 were recovered on July 8, 2010.

more," and could be attended for a "\$100 donation." Id.

Defendant asserts that his arrest has led him to understand that the federal government prohibits the use and distribution of marijuana, but this promise does not convince the Court that Defendant will cease to distribute and use marijuana if he were to be released pending trial. In addition, as described above, a March 2010 warranted search of Defendant's residence did not cause Defendant to cease operation of the THC Ministry, as marijuana was again found at the THC Ministry and his residence in July 2010.

Accordingly, the Court finds that this factor is neutral; although it is a very close call whether this factor is neutral or slightly weighs in favor of detention. Further, even if this factor weighs in favor of release, detention would remain appropriate because all of the other remaining factors strongly weigh in favor of detention. See Rodriguez, 950 F.2d 85, 89 (2nd Cir. 1991) (explaining that "[a]llthough a prior record of violence eases the government's burden of showing dangerousness, it is not essential"); see also Hir, 517 F.3d at 1091 (finding that detention was appropriate even though the history and characteristics of the defendant weighed against a finding of dangerousness).

**E. Conclusion**

In summary, the Court finds that the Government has come forward with clear and convincing evidence that Defendant poses a danger to the community. Having reached this conclusion, the Court must determine whether there is a "condition or combination of conditions [that] will reasonably assure . . . the safety of any other person and the community." See 18 U.S.C. § 3142(e).

Although the proposed conditions of release in the PSR are strict, they depend on Defendant's good faith compliance to be effective and therefore do not adequately assure the safety of the community in this instance. See Hir, 517 F.3d at 1092 (citing Tortora, 922 F.2d at 886).

Given the strength of the Government's evidence, coupled with the statutory presumption that no conditions of release will reasonably assure the safety of the community where a defendant is charged with trafficking drugs, the Court finds there is an unacceptably high risk that Defendant would not comply in good faith with the proposed conditions, or any other combination of release conditions, imposed upon him. This is especially true given that a previous search of the Ministry and Defendant's residence in March 2010 did not prevent Defendant from continuing his involvement in the THC Ministry. That is, Defendant has demonstrated by his prior conduct between March and




(3) On further order of this Court or on request of an attorney for the government, the person in charge of the corrections facility in which Defendant Christie is confined is to deliver him to a United States Marshal for the purpose of appearing in connection with any court proceeding.

IT IS SO ORDERED.

Dated: Honolulu, Hawai'i, July 20, 2010.



  
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Alan C. Kay  
Sr. United States District Judge

United States v. Christie, Cr. No. 10-00384 SOM(1): Order Denying Defendant's Motion for Revocation of Detention Order

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	
	)	Criminal No. 10-00384 SOM
Plaintiff,	)	
	)	Honolulu, Hawaii
vs.	)	July 16, 2010
	)	10:10 a.m.
ROGER CUSICK CHRISTIE, (01)	)	
	)	Motion Hearing
Defendant.	)	
_____	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE ALAN C. KAY  
UNITED STATES DISTRICT COURT SENIOR JUDGE

APPEARANCES:

For the Government:	MICHAEL K. KAWAHARA
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For the Defendant:	MATTHEW C. WINTER
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	Honolulu, Hawaii 96850
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Proceedings reported by machine shorthand, transcript produced by computer-aided transcription.

1 (Friday, July 16, 2010, 10:10 a.m.)

2 --oOo--

3 COURTROOM MANAGER: Calling the case of Criminal  
4 Number 10-00348 SOM, United States of America versus Defendant  
5 01, Roger Christie.

6 This hearing has been called for Defendant's Motion  
7 for Revocation of Detention Order pursuant to Section 18 USC  
8 Section 3145(b) and Motion to Release Defendant on the Bail  
9 Conditions proposed by Pretrial Services.

10 Counsel, your appearances for the record, please.

11 MR. KAWAHARA: Good morning, Your Honor. Michael  
12 Kawahara representing the United States of America.

13 THE COURT: Good morning.

14 MR. WINTER: Good morning, Your Honor. Matthew  
15 Winter from the Federal Defender's Office. With me at counsel  
16 table is Roger Christie.

17 THE COURT: Good morning. Please be seated. I  
18 understand, Mr. Winter, that you are not willing to sign this  
19 approved as to form the proposed order that the Government has  
20 prepared pursuant to Judge Chang's instructions.

21 MR. WINTER: Your Honor, I'd ask that if the Court  
22 has questions to maybe review the audio of that hearing.

23 But --

24 THE COURT: I have reviewed it.

25 MR. WINTER: Okay. I just don't see the findings

1 that Mr. Kawahara added in this order. I don't remember  
2 Judge Chang stating those findings. So, I have no problem with  
3 signing an order that says Mr. Christie was detained. However,  
4 the explicit findings that are present in the order, I do  
5 object to those, at least --

6 THE COURT: Well, you know, frequently, a judge  
7 doesn't issue all of his findings in open court, but he does  
8 follow that up with a written order where he elaborates on his  
9 ultimate conclusion.

10 MR. WINTER: One of my bases for appeal is I don't  
11 think Judge Chang went through the proper analysis in this  
12 case. So, I just have a problem with some of those findings.

13 Whether or not Judge Chang implied to make those  
14 findings or not, I don't know. But from the audio -- or from  
15 being at the hearing, I don't remember him making those  
16 findings. I'm hesitant to sign a document that states that he  
17 did.

18 THE COURT: Well, do you wish to hold up this hearing  
19 until Judge Chang reviews that proposed order?

20 MR. WINTER: No. What I propose is that I think  
21 Judge Chang's order from the bench holds. I think I will agree  
22 to the fact that Judge Chang entered an order detaining  
23 Mr. Christie, and I think it's properly before your Court or  
24 this Court for either one of those two reasons.

25 THE COURT: So, you wish this Court to proceed with

1 this hearing, notwithstanding that Judge Chang's written order  
2 has not been signed yet.

3 MR. WINTER: Yes, I think his oral order from the  
4 bench is sufficient. And I think my agreement that Judge Chang  
5 entered an order detaining my client is enough for this Court  
6 to go forward.

7 THE COURT: What's your position on that,  
8 Mr. Kawahara?

9 MR. KAWAHARA: Your Honor, since this is before the  
10 Court on de nova review or de nova determination, it is  
11 possible that this Court may rely upon what was presented to  
12 Judge Chang in the first instance.

13 And it is correct that I'm -- given the tenor of the  
14 arguments that were made before him last Tuesday, I am implying  
15 what the findings must have been, because the entire argument  
16 that we made, at that time, was danger to the community based  
17 upon what we set forth in the proposed order. And I believe  
18 the judge did rely upon those.

19 Nevertheless, procedurally, what -- if there are any  
20 procedural defects, that can be handled by this Court, because  
21 as I said, this Court has de nova review authority over the  
22 entire matter to begin with.

23 THE COURT: So, you likewise wish the Court to  
24 proceed with this hearing at this time.

25 MR. KAWAHARA: Yes, Your Honor. I believe the Bail

1 Reform Act requires a speedy disposition on matters like this  
2 to begin with, so I think this is the appropriate forum and the  
3 appropriate time now.

4 THE COURT: All right. Let's proceed. It's your  
5 motion then, Mr. Winter.

6 MR. WINTER: Thank you, Your Honor. Your Honor, it's  
7 my belief that the Bail Reform Act --

8 THE COURT: I would like you to come up to the  
9 podium, please.

10 MR. WINTER: Oh, thank you.

11 Your Honor, under the tenants of the Bail Reform Act,  
12 I think Mr. Christie should be released on bond forthwith. In  
13 analyzing the 3142(g) factors, I think every factor weighs in  
14 Mr. Christie's favor. I will start with the nature and  
15 circumstances of offense charged.

16 Mr. Christie is presumed innocent. This charged  
17 crime is a nonviolent crime. And while the Government's brief  
18 discusses a contact and seizure that was made on March 10th,  
19 there was no danger perceived from Mr. Christie from that date  
20 until his arrest five months later.

21 For the Government, to now bring up an argument that  
22 Mr. Christie poses a danger to the community, belies their  
23 actions from March 10 until July in not arresting him or not  
24 detaining him.

25 But, even if the Government perceived that there will

1 be a future danger from Mr. Christie's release, and analogizing  
2 it with their argument from March 10th and the actions  
3 Mr. Christie did subsequently, Mr. Christie's actions, after  
4 the March 10th seizure, was without formal charges being filed  
5 in a case. His actions, during that period, were without  
6 pretrial supervision, without conditions being set by a court,  
7 and without a promise to Your Honor or another judicial officer  
8 of how he will act.

9 THE COURT: Mr. Winter, Mr. Christie's been charged,  
10 in the indictment, with three counts of marijuana trafficking  
11 offenses, each of which, if he is convicted, carry a statutory  
12 penalty of five to 40 months. So, under the Bail Reform Act of  
13 1984, there is probable cause to believe that Mr. Christie  
14 committed an offense for which a maximum term of imprisonment  
15 of 10 years or more is prescribed under the Controlled  
16 Substances Act.

17 So, there is a rebuttable presumption that no  
18 condition or combination of conditions will assure the safety  
19 of the community. That presumption applies contrary to what  
20 you said.

21 MR. WINTER: What I mean is that because all of the  
22 3142(g) factors, I believe, favor Mr. Christie, that that  
23 presumption is then withdrawn. I think from there, the  
24 Government then has to prove, by clear and convincing evidence,  
25 that Mr. Christie is a danger to the community. And under the

1 3142(g) factors, there just is not sufficient proof that  
2 Mr. Christie would be a risk on bond.

3 The Government makes a strong argument as to the  
4 weight of the evidence against the person, but the Bail Reform  
5 Act, and the subsequent cases, such as *Cardenas* or *Motamedi*  
6 point to this Court that the weight of the evidence is the  
7 least important of the various factors under the Bail Reform  
8 Act.

9 It doesn't want courts to have to presuppose whether  
10 or not an individual is guilty of the crime charged. It wants  
11 the courts to proceed under a presumption of innocence. And  
12 that's why the subsequent case law, on that point, have steered  
13 the courts away from weighing too heavily on that point. And  
14 that's something I think the Government relies too strongly  
15 upon.

16 But regardless of the weight of the evidence, this is  
17 a five-year minimum mandatory charge, a lower type of charge  
18 for defendants in this district. Defendants in this district  
19 are regularly let out on bail on 10 year and more minimum  
20 charges.

21 Mr. Christie has no scoreable criminal history under  
22 the Sentencing Guidelines, and that's something that could  
23 affect the possibility of his sentencing ranges. When we move  
24 to the history and characteristics of the person under  
25 3142(g)(3), we see another example of someone who's fit to be

1 set on bond.

2 Mr. Christie is 61. He's mentally and physically  
3 fit. He has incredibly strong ties to Hilo, which has been his  
4 community for more than 25 years. He's someone that's run for  
5 mayor of that town twice before. He's served in the United  
6 States Army as an intelligence analyst. He's someone that has  
7 strong ties to that community, strong ties to the people around  
8 him.

9 And people -- and he operates -- when he did operate  
10 the THC Ministry, it was operated openly. It was a store front  
11 in Hilo. He had occasions where he met with law enforcement,  
12 both Federal and State. He's been involved in legal cases that  
13 have been brought before this District Court challenging  
14 marijuana laws.

15 So, he's someone that he has strong ties to the  
16 community. His motivations, in this case, are something that's  
17 been known to the Federal Government and the State Government.

18 As to factor four, the nature and seriousness of the  
19 danger -- of any danger to a person or the community, Your  
20 Honor, this is based on pure speculation. What Mr. Christie  
21 may do, once he's released, and the argument made by the  
22 Government is just pure speculation.

23 Any conditions set by this Court could easily  
24 minimize any worry of danger and rebut any presumption that he  
25 would cause any danger to the community. The Government fails

1 to explain why the conditions are not good enough to assuage  
2 any danger to the community or individual. Mr. Christie will  
3 not, as the Government believes, revert back to his prior  
4 behavior by reinstating the THC Ministry in its prior  
5 mission.

6 We stand by the statement that we made in our motion,  
7 Your Honor, which is the THC Ministry's past practices and its  
8 mission have been altered by the current prosecution. Due to  
9 this prosecution, Mr. Christie and others involved in the THC  
10 Ministry recognize that the Federal Government prohibits any  
11 practice that includes the use of marijuana.

12 THE COURT: You know, you would think that the light  
13 would have come on when the first search of his residence was  
14 made and they found marijuana and an unusual amount of cash.

15 MR. WINTER: But, you know, maybe the light didn't go  
16 on because he wasn't arrested. You know, I think it would have  
17 been a more forceable argument if he had been arrested. But  
18 the fact that the marijuana was seized, the cash was seized,  
19 but Mr. Christie was left in the community, it almost sends the  
20 opposite message.

21 But here, before this Court, at least for bail  
22 considerations, we really have a different situation. We not  
23 only have that March 10th seizure, but we have formal charges,  
24 very serious charges against Mr. Christie. We have a pretrial  
25 service office and an officer that will regulate Mr. Christie's

1 actions. We have Mr. Christie's promise to this Court on  
2 conditions of release.

3 And that promise, if he violates, not only risks  
4 putting him back in prison, but if he violates that promise,  
5 that could ruin his cause in this Court, which is --

6 THE COURT: We have heard many promises like that in  
7 the past.

8 MR. WINTER: But this one, Mr. Christie is an  
9 advocate for the religious use of marijuana.

10 THE COURT: Exactly.

11 MR. WINTER: If he fails in his -- if he fails, under  
12 an order of this Court, if he breaks a promise to this Court,  
13 that harms his advocacy of this case through the Federal  
14 system. That's something Mr. Christie does not want at all to  
15 happen.

16 If he's going to be prosecuted, in this case, he  
17 wants to use the judicial process in the most perfect way. He  
18 wants to set up his case in a way that he can challenge this  
19 law. And if he messes up on pretrial release, which is a  
20 direct violation of an order by Your Honor or any other judge,  
21 that does more harm to his case than anything else that could  
22 happen.

23 So, I think based upon that, that could be a factor  
24 that the Court could consider. But this is different than  
25 March 10th. All the pieces are in place to watch over

1 Mr. Christie. And from March 10th to July 5th, this period  
2 that the Government was worrying about Mr. Christie, he wasn't  
3 seen as a danger, at least not enough of one to be pulled off  
4 the street.

5 So, I think, under the condition proposed in the  
6 Pretrial Service report, in their first report, which is a  
7 \$50,000 personal security bond, home detention, electronic or  
8 GPS monitoring, I think that's more than sufficient to know  
9 that Mr. Christie will not pose a danger to the community and  
10 will abide by all the conditions of release.

11 Second of all, I think, as I pointed out, the nature  
12 of --

13 THE COURT: Pretrial Services has withdrawn that  
14 recommendation, hasn't it?

15 MR. WINTER: They have, but when you read the  
16 recommendation, I think it was based upon the first hearing. I  
17 think it was based upon what they perceived occurred at the  
18 first hearing.

19 And I still think that that first recommendation is a  
20 good and strong recommendation. I think Mahoney Hale is the  
21 wrong move, in this case, and here is why. Mahoney Hale is a  
22 great place for people who live on Oahu, who have ties on Oahu,  
23 or want to reintegrate into society on Oahu.

24 Mr. Christie is from Hilo. That's a completely  
25 different place than Mahoney Hale. Not just is Hilo and

1 Mahoney Hale different or Oahu different, but Hilo and Mahoney  
2 Hale are different. There's different types of people in  
3 Mahoney Hale; people that are just coming out of prison trying  
4 to reintegrate.

5           Someone who is 61, who has no prior criminal history,  
6 at least scoreable, under the Federal system, is going to be a  
7 big fish out of water in that setting. It's going to be more  
8 punitive than what it would be to someone on Oahu who would  
9 have family to visit; who would be able to reintegrate through  
10 a job. I think that's the wrong call for Mr. Christie.

11           In addition, we have the problem that Mahoney Hale  
12 can't accept him for four to six weeks. So, Mr. Christie would  
13 be essentially be denied bail for another four to six weeks  
14 while he hopes for a place to come up. But again, I think  
15 Mahoney Hale would be a problematic placement.

16           Now, I wish our district had halfway houses on the  
17 other islands. I think that's wholly appropriate, and it would  
18 do more good to integrate these people back into their actual  
19 islands and areas that they live in, where they can get a job  
20 that can be followed through on once they are completely  
21 released. But until we have that, I think the halfway house  
22 option here, especially in Mr. Christie's case, falls short.

23           But, Your Honor, one other thing. Mr. Christie  
24 abides by -- would abide by all the drug testing conditions.  
25 He would abide to not be around, in the presence of any drugs.

1 He would not allow -- if he was allowed to go to the THC  
2 Ministry -- and that's something we will leave up to Your  
3 Honor -- the THC Ministry would be completely cleared out of  
4 any marijuana or any paraphernalia.

5 As we stated, we stand by our statement that the  
6 Ministry's mission has been altered by the prosecution in this  
7 case. Mr. Christie will stand by the orders of this Court. He  
8 wants to see this case go through in a lawful manner. He does  
9 not want to ruin his case by violating an order of this Court.  
10 Thank you.

11 THE COURT: Mr. Kawahara. Do you wish to put on any  
12 evidence or testimony, Mr. Winter?

13 MR. WINTER: No, Your Honor. I stand by the proffer.

14 MR. KAWAHARA: May it please the Court. We have  
15 presented much evidence or proffers based upon the wiretap  
16 investigation conducted in this case in our memorandum, so I  
17 don't want to go into great detail on that, because that's  
18 already been filed with the Court.

19 But I would point out, I look at defendant's motion  
20 that they made, and in footnote three, on Page 7, they say, and  
21 I quote, "Mr. Christie instead plans to continue individual and  
22 group counseling of THC Ministry members. And somehow" --  
23 unquote.

24 Somehow, there is some belief that you can segregate  
25 out the marijuana trafficking activities that were -- that

1 imbue the Ministry beforehand and somehow there's something  
2 left that can still be conducted, by Mr. Christie, and still  
3 provide him a livelihood. What exactly are we talking about  
4 when we talk about, quote, unquote, "individual and group  
5 counseling of THC members"? What were the services offered?

6 As we pointed out in our memo, Your Honor, Cannabis  
7 College. How to grow the best marijuana. Bringing your  
8 suppliers in, as he put upon his website, bringing in Defendant  
9 Wes Sudbury, who is -- and his girlfriend, who are among the  
10 defendants, in this case, as suppliers of Mr. Christie in 2009.  
11 They are your teachers on how -- in Cannabis College which he  
12 offered two sessions.

13 THE COURT: Why did you agree to the release of the  
14 other defendants?

15 MR. KAWAHARA: I believed, Your Honor, in large  
16 measure, that they were under the influence of Mr. Christie to  
17 some extent. A lot of them did not have the -- or were not  
18 involved in this matter as extensively as he was. And I  
19 believe there were differences, and there were conditions that  
20 could be set that could otherwise have alleviated the  
21 situation.

22 Part of my problem, with Mr. Christie, and I will,  
23 if -- I was going to reserve that for later, why I do not agree  
24 with the recommendation -- the most recent recommendation of  
25 Pretrial Services, is Mr. Christie, in his own mind, genuinely

1 believes himself to be above the law. And that's the greatest  
2 problem that we have here.

3 And if I may quote, if I may. You know, when I  
4 mentioned, in our memorandum that we filed with you,  
5 Mr. Christie's support for the so-called lowest law enforcement  
6 priority on the Big Island, and so we pointed out in our memo  
7 what came out of the wiretap investigations. Mr. Christie had  
8 a hidden agenda in that it would enhance his supply  
9 opportunities.

10 But in terms of his own thinking, there is that one  
11 telephone call where he -- on April 17, where he was talking to  
12 someone else and explaining how that would assist him. At  
13 Page 24 of our memorandum, if the Court may recall, and as  
14 Mr. Christie says, talking about this, the enactment of the  
15 lowest law enforcement priority, he says, and I quote. "And so  
16 I'm thinking how to step it up another notch forward, and  
17 that's to -- like, for instance, your situation or somebody  
18 else's -- let some people know that the Ministry needs more  
19 herb. That our new law, passed in November, allows 24 plants  
20 per adult in private at home."

21 Then he goes on to explain what he means. Again,  
22 this is at Page 24 of the memorandum that I submitted to you.

23 "Christie: Because ballot question one -- and that's  
24 this marijuana ordinance -- was approved, it's 24 plants per  
25 adult here. Um, it's private at home, but there's no commerce

1 allowed with it.

2 J.: The person he's talking to. "No commerce allowed  
3 with it.

4 "Christie: Right, it's not allowed to be grown for  
5 sale. So this -- this is where the Ministry comes in. I think  
6 my license allows me to accept offerings of that backyard  
7 produce.

8 "J.: Uh-huh.

9 "Christie: And then offer something back to the --  
10 to the grower, so --

11 "J.: Okay.

12 "Christie: So, I'm just -- I'm exploring this  
13 possibility here. How to take people's backyard profit  
14 centers, or the potential profit center in somebody's back  
15 yard, and turn it into -- you know, make it more legit through  
16 the Ministry."

17 Your Honor, if I offered another person contraband,  
18 like marijuana, and that other person, in turn, offered me  
19 something of value back, that's commerce. That's sale. But  
20 for some reason, Mr. Christie genuinely believes, because of  
21 what he has done, he's above the law. He doesn't -- the law  
22 does not apply to him. That's not a sale.

23 And the problem that you have is that was why  
24 March 10th, his premises, both -- the Ministry was searched,  
25 both his house was searched, all the contraband was removed at

1 that time. July 8th, he started up in business again.

2 Remember, as we indicated in our memo, defendant  
3 bragged, at one point before, how they were -- and his  
4 girlfriend bragged how they were serving 60 to 70 customers a  
5 day. Going through at least half a pound each day. Well, we  
6 did surveillance a couple days before. And as indicated in our  
7 memo, the Friday before last, two Fridays ago, in just an hour  
8 and a half, some 20 people came in and out of his -- of his  
9 Ministry.

10 This past Tuesday, again, three hours of surveillance,  
11 from the 2:00 to 5:00 operating hours, some 42 people went in  
12 and out. So, he started up in a large way. And why did he  
13 start up again? Because, as I pointed out, as illustrated by  
14 his comments with respect to the lowest law enforcement  
15 priority, he thinks he can do anything that other people cannot  
16 do, because he's above the law.

17 And it's not only, Your Honor -- it is not only that  
18 Mr. Christie believes he can restart up marijuana trafficking  
19 again, under the guise of the Ministry, it's more than that.  
20 As we also pointed out in our memo, there were two separate  
21 occasions, that came up during the wiretap investigation, where  
22 it appeared that Mr. Christie was using his status to, call it,  
23 arguably, obstruct justice.

24 In one instance, he was called by one of his Ministry  
25 members saying that the police were asking about him. What

1 should he do. Mr. Christie specifically asked, "You got  
2 anything on you?" His member said, "I got my -- I got my herb  
3 and I got my bong." And Mr. Christie suggested, "Why don't you  
4 let me hold that."

5 The second situation, he had another Ministry member,  
6 who had been arrested. And another person, as they discussed  
7 this other person's arrest, the question came up, "Well, maybe  
8 he might have some stuff in his house." So Christie says,  
9 "Well, I will now make a, quote, unquote, clergy call to lock  
10 up." And he does proceed to do that, within minutes later, and  
11 what he gets from that inmate now is an inventory of what has  
12 to be, quote, unquote "cleaned from that guy's house."

13 And Mr. Christie makes an effort, after that, to try  
14 and get in touch with another person to go clean that house.  
15 It wasn't necessary, as it turned out, the next day, because  
16 that inmate was able to get in touch with his friend to begin  
17 with.

18 But, it's part and parcel of what Mr. Christie  
19 believes he can do, because he's above the law. And so what we  
20 are talking about here, the Bail Reform Act, when we talk about  
21 dangerousness, we are not talk about just the commission of  
22 violent crimes. We are talking about the propensity to commit  
23 other crimes.

24 And in Mr. Christie's case, it's not only the issue  
25 of will he reengage in marijuana trafficking again. It's also

1 the question of what ancillary will he do, because he believes  
2 he's above the law, that he can do for other people. And  
3 that's all part and parcel of the dangerousness that has to be  
4 considered by this particular defendant.

5 And for that reason, Your Honor, we believe that  
6 Magistrate Chang was entirely correct, and that there is a  
7 showing here of clear -- by clear and convincing evidence that  
8 defendant is a danger to the community.

9 And while we appreciate the -- that Pretrial Services  
10 did make a good effort to see what is possible and what is not,  
11 I think it's very clear that their determination that if  
12 defendant is on the Big Island, there's no way they can monitor  
13 him appropriately. And I believe that's entirely correct.

14 But even if in Miller Hale -- Mahoney Hale. Even in  
15 Mahoney Hale, Your Honor, there has to be some belief, there  
16 has to be some confidence that this Court would have that  
17 Mr. Christie would abide by any orders and conditions this  
18 Court would set.

19 But what I suggest to the Court is, from what we know  
20 about Mr. Christie, what has come out in these particular  
21 telephone calls that I have mentioned to you, his actions in  
22 the past, Mr. Christie listens to no one but himself. And  
23 that's why he's a danger to the community.

24 That is why, Your Honor, we suggest that Magistrate  
25 Chang was entirely correct in ordering his detention without

1 bail. That's my argument, Your Honor, unless you have  
2 questions for me.

3 THE COURT: On Page 16 of your memo, at the bottom,  
4 you say, "Likewise, in call 3293, TT1, on 4/25/09, Customer F  
5 asked Christie, what is the donation going for? And Christie  
6 replied 50, (that is \$50), an eighth, (that is, 1/8th ounce or  
7 3.5 grams), a hundred, (\$100), a quarter, (that is 1/4 ounce)  
8 for grade A."

9 I would like you to elaborate on that. I said, I  
10 would like you to elaborate on that.

11 MR. KAWAHARA: Your Honor, what he's -- basically,  
12 what -- as I understand what Mr. Christie was doing, is that he  
13 was claiming that he was, quote, unquote, donating the  
14 sacrament to his members. And they, in turn, were donating  
15 something back to him. And for that reason, it was not a sale.

16 But, in fact, from the wiretap, it was clear that  
17 Mr. Christie was quoting that these, in fact, were prices.  
18 Whatever donations that they were, were, in fact, prices. And  
19 that's what he was quoting to this particular individual.

20 When he said, "What is the donation going for?"  
21 Christie is saying, "\$50 for a eighth." That's a eighth of an  
22 ounce or an eight ball as is typical. "\$100 for a quarter  
23 ounce, for grade A." Grade A, of course, is the -- he had a  
24 grading system that he used. That's the highest quality bud --  
25 marijuana buds that he had available, and that was the price.

1           And that's, of course, consistent, because, as we  
2 point out on the following page, he's speaking to another  
3 person named "D".

4           And D asks him. He says -- Christie says, "We have  
5 some Triple A bud."

6           D then asks, "At regular, um, donation prices?"

7           Christie replied: "Yeah."

8           D then said, "How much for a -- for an ounce?"

9           Christie said, "400." That is \$400.

10          D said, "Wow. That's high."

11          And Christie answers, "It's retail, normal retail.

12 You know, we buy it, you know, at 4500, 5,000 a pound, so --"

13          Defendant, Mr. Christie, is justifying why he is  
14 charging 400 an ounce, even though he calls it a donation.

15 What's interesting is, Your Honor, that defendant's business

16 partner, Sherry St. Cyr, or Cyr, in her call, it's very

17 interesting. She calls herself -- she says that she's mostly

18 involved in the distribution at the Ministry. And what she

19 says is that when the person asked her, "Well, what do you

20 charge as prices?" She says, "Well, we have donations,

21 suggested donations."

22          And it's also very telling, Your Honor, that when

23 Miss Syr or Miss Syr was also very, very concerned that there

24 are price lists that she saw at the -- at the Ministry, and so

25 she instructed the -- one of the other employees, Victoria

1 Fiore, that I don't want to see any -- any of those pieces of  
2 paper that say how much things cost at the Ministry, especially  
3 if they have dollar signs with them. And when Victoria asked  
4 her, "Well, what are we supposed to do when people ask how much  
5 something costs?" And Miss Cyr's response was, "Memorize it."

6 So, there are a lot of fictions. There's a whole  
7 question -- the whole issue, to me, Your Honor, is that if you  
8 take away the marijuana trafficking or the marijuana  
9 facilitation activities at the Ministry, what else is left?  
10 And there is nothing.

11 What is the counseling that is available? As I  
12 indicated, Cannabis College or bringing in those specialists  
13 from the Netherlands on indoor marijuana grows. Who are the  
14 people being instructed? His suppliers. There is not much  
15 left of the Ministry, Your Honor.

16 I would suggest to the Court that Magistrate Chang  
17 was entirely correct in ordering the defendant's detention  
18 without bail.

19 THE COURT: Thank you. Anything more, Mr. Winter?

20 MR. WINTER: If I could just briefly respond to a  
21 couple points, Your Honor.

22 THE COURT: You may.

23 MR. WINTER: Your Honor, again, the weight of the  
24 evidence is the least important factor under the Bail Reform  
25 Act. It's because if that was an important factor, then no

1 criminal defendant would ever be let out. A prosecutor would  
2 always come up and say this string of horrors that that  
3 person is alleged to have committed in order to be standing  
4 before the Court.

5 Mr. Christie's presumed to be innocent. What  
6 Mr. Kawahara said, whether true or not, should not be a  
7 consideration of this Court unless it shows a dangerousness by  
8 Mr. Christie, and I don't think it does.

9 For example, Miss St. Cyr, who Mr. Kawahara just  
10 spoke of, the person he said was most involved in distribution,  
11 she's let out on bail. She's someone who has been seen to be  
12 appropriate, under the Bail Reform Act, that conditions could  
13 be imposed upon.

14 We think the same is true of Mr. Christie. He will  
15 not restart up business as usual with the THC Ministry. If  
16 ordered by this Court, he will not be involved in the THC  
17 Ministry. But, to the degree, regardless of the Court's order,  
18 the THC Ministry's mission has changed.

19 The counseling that we spoke of, Mr. Christie is  
20 involved in weddings, funerals, counseling of grieving people,  
21 just general counseling in his community. He's someone who is  
22 involved in his community, and that's shown by his run for mayor  
23 and his other activities in the community.

24 But again, the weight of the evidence, in this case,  
25 regardless, cannot be something, I think, that can be

1 considered as much as Mr. Kawahara wants it to be. Otherwise,  
2 we would be in a situation where no criminal defendant would  
3 ever be let out on bail.

4 The 3142(g) factors, the factors mandated by the Bail  
5 Reform Act, the ones I went through with Your Honor about the  
6 nature and circumstances, the weight of the evidence, the  
7 history and characteristics, and the nature and seriousness of  
8 Mr. Christie to be a danger all weigh in Mr. Christie's favor.  
9 He's someone that will abide by this Court's order. He has an  
10 interest, not just in his personal liberty in doing so, but for  
11 his case in abiding by this Court's order.

12 Thank you, Your Honor.

13 THE COURT: Thank you. Anything more, Mr. Kawahara?

14 MR. KAWAHARA: The only thing I would add, Your  
15 Honor, the issues or the evidence that I have tendered have  
16 less to do with the weight of the evidence against the  
17 defendant as much as it had to do with countering defendant's  
18 argument that the THC Ministry could be circumscribed, shall we  
19 say, or function as he claims it to be.

20 And secondly, to go to the most important fundamental  
21 question of all, to what extent can this Court have any  
22 confidence in the defendant's ability to comply with whatever  
23 this Court may order if he's released on bail.

24 THE COURT: Thank you. The Court's ready to rule.  
25 After de nova review of the entire record, including the

1 Supplemental Pretrial Services Report, the factors set forth in  
2 Section 3142(g) of the Bail Reform Act of 1984, and having  
3 considered the memos and arguments of counsel, the Court hereby  
4 denies Defendant's Motion for Revocation of Detention Order,  
5 because there is probable cause to believe that defendant has  
6 committed an offense for which a maximum term of imprisonment  
7 of 10 years or more is prescribed under the Controlled  
8 Substances Act. The rebuttal presumption that no condition or  
9 combination of conditions will assure the safety of the  
10 community applies.

11 This Court agrees with Magistrate Judge Chang's  
12 conclusion that defendant must be detained pending trial,  
13 because he did not rebut his presumption.

14 At the detention hearing before Judge Chang, the  
15 Government presented, in this Court's finding, clear and  
16 convincing evidence that defendant poses a danger to the  
17 community by explaining that even after the Drug Enforcement  
18 Agency removed marijuana and other contraband from the Ministry  
19 and defendant's residence, during warranted searches, on  
20 March 10th, 2010, marijuana was discovered during follow-up  
21 warranted searches of the Ministry and his residence on July 8,  
22 2010, which were concurrent with his arrest.

23 The Court, in considering the 3142(g) factors, finds  
24 that defendant's evidence, which essentially amounts to his  
25 assertions that he will stop distributing marijuana, is

1 insufficient to rebut the condition that no condition or  
2 combination of conditions will reasonably assure the safety of  
3 the community.

4 Even had defendant successfully rebutted the  
5 presumption of danger to the community, the Court finds that  
6 the Government has proven, by clear and convincing evidence,  
7 that defendant poses a risk to the community, which, in this  
8 case, is a risk that he will continue to traffic drugs pending  
9 trial.

10 And the Court finds that there -- again, with clear  
11 and convincing evidence, that there is no condition or  
12 combination of conditions which will reasonably assure the  
13 safety of the community.

14 In light of the foregoing, the Court orders that the  
15 defendant be held without bond pending trial of this matter and  
16 is remanded to custody. The Court will issue a written order  
17 which will be more elaborate including the findings of the  
18 Court. Thank you.

19 (Recess, 10:45 a.m.)  
20  
21  
22  
23  
24  
25



**U.S. District Court  
District of Hawaii (Hawaii)  
CRIMINAL DOCKET FOR CASE #: 1:10-cr-00384-SOM All Defendants**

Case title: USA v. Christie et al

Date Filed: 06/24/2010

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (1)**

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Email: [matthew\\_winter@fd.org](mailto:matthew_winter@fd.org)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or Community  
Defender Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level**

**(Terminated)**

None

**Complaints**

**Disposition**

None

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (2)**

**Sherryanne L. St. Cyr**

represented by **Dana S. Ishibashi**  
1188 Bishop Street, 36th Floor PH-2  
Honolulu, HI 96813  
524-5690  
Fax: 536-2015  
Email: [ishibashid@aol.com](mailto:ishibashid@aol.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

**Disposition**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

**Disposition**

None

**Highest Offense Level**  
**(Terminated)**

None

**Complaints**

None

**Disposition**

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (3)**

**Susanne Lenore Friend**

represented by **Gurmail G. Singh**  
Topa Financial Center  
Bishop Street Tower  
700 Bishop Street, Ste 2100  
Honolulu, HI 96813  
080-529-0626  
Fax: 808-529-0627  
Email: [gary@garysinghlaw.com](mailto:gary@garysinghlaw.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

**Disposition**

None

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (4)**

**Timothy M. Mann**

represented by **Harlan Y. Kimura**  
Central Pacific Plaza  
220 S King St Ste 1660  
Honolulu, HI 96813  
521-4134  
Fax: 521-0361  
Email: [hyk@aloha.net](mailto:hyk@aloha.net)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (5)**

**Richard Bruce Turpen**

represented by **Barry D. Edwards**  
P. O. Box 6599  
Kaneohe, HI 96744  
239-6976  
Fax: 239-6977  
Email: [barrydedwards@gmail.com](mailto:barrydedwards@gmail.com)  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(A) –  
Manufacture marijuana, a  
Schedule I controlled substance  
(4)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(A) –  
Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(5)

**Highest Offense Level (Opening)**

Felony

**Disposition**

**Terminated Counts**

**Disposition**

None

**Highest Offense Level  
(Terminated)**

None

**Complaints**

**Disposition**

None

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (6)**

**Wesley Mark Sudbury**

represented by **Michael J. Park**  
Union Plaza  
1136 Union Mall, Penthouse 1B  
Honolulu, HI 96813  
542-5533  
Fax: 536-4988  
Email: [mparkatty@hawaii.rr.com](mailto:mparkatty@hawaii.rr.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

**Disposition**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) –  
Manufacture marijuana, a Schedule  
I controlled substance  
(6)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,

DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) –  
Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(7)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (7)**

**Donald James Gibson**

represented by **Richard S. Kawana**  
P. O. Box 240362  
Honolulu, HI 96824-0362  
536-6805  
Email: [rskawana@prodigy.net](mailto:rskawana@prodigy.net)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance

**Disposition**

(3)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) –  
Manufacture marijuana, a Schedule  
I controlled substance

(8)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) –  
Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance

(9)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

**Disposition**

None

**Highest Offense Level  
(Terminated)**

None

**Complaints**

**Disposition**

None

Assigned to: JUDGE SUSAN  
OKI MOLLWAY

**Defendant (8)**

**Roland Gregory Ignacio**

represented by **Louis Michael Ching**  
4475 Kilauea Ave  
Honolulu, HI 96816  
392-8727  
Email: [louismichaelching@hotmail.com](mailto:louismichaelching@hotmail.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

**Disposition**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance

(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,

21:841(a)(1) & 841(b)(1)(B)  
& 18:2 – Manufacture marijuana,  
a Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) & 841(b)(1)(B)  
& 18:2 – Possess with intent to  
distribute marijuana, a Schedule I  
controlled substance  
(3)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) & 841(b)(1)(C) –  
Manufacture marijuana, a  
Schedule I controlled substance  
(10)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) & 841(b)(1)(C) –  
Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(11)

**Highest Offense Level  
(Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (9)**

**Perry Emilio Policicchio**

represented by **Stuart N. Fujioka**  
Attorney at Law  
1188 Bishop St Ste 1006  
Honolulu, HI 96813-3304  
544-0068  
Email: [stuart@snfaal.com](mailto:stuart@snfaal.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

**Disposition**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(C) –  
Manufacture marijuana, a Schedule  
I controlled substance  
(12)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(C)  
(13)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (10)**

**John Debaptist Bouey, III**

represented by **Cynthia A. Kagiwada**  
PO Box 368  
Kaneohe, HI 96744

230-4430  
Email: [c\\_kagiwada@hotmail.com](mailto:c_kagiwada@hotmail.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
Designation: CJA Appointment

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(D) –  
Manufacture marijuana, a  
Schedule I controlled substance  
(14)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

**Disposition**

**Disposition**

---

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (11)**

**Michael B. Shapiro**  
*also known as*  
Dewey

represented by **Clifford B. Hunt**  
Law Office of Clifford Hunt  
333 Queen St Ste 612  
Honolulu, HI 96813-0003  
545-4050  
Fax: 544-0007  
Email: [notguilty007@msn.com](mailto:notguilty007@msn.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(D) –  
Manufacture marijuana, a Schedule  
I controlled substance  
(15)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

**Disposition**

**Disposition**

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (12)**

**Aaron George Zeeman**

represented by **Todd W. Eddins**  
Pauahi Tower  
1003 Bishop St Ste 1320  
Honolulu, HI 96813  
538-1110  
Email: [eddins@eddinsdefense.com](mailto:eddins@eddinsdefense.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

---

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (13)**

**Victoria C. Fiore**

represented by **Michael Jay Green**  
Queen Street Building  
345 Queen St 2nd Fl  
Honolulu, Hi 96813  
521-3336  
Email: [michaeljgreen@hawaii.rr.com](mailto:michaeljgreen@hawaii.rr.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Retained*

**Rustam Barbee**  
Law Office of Rustam A. Barbee  
1188 Bishop St Ste 2606  
Honolulu, HI 96813  
524-4406  
Fax: 524-4306  
Email: [rustam@honoluluattorney.com](mailto:rustam@honoluluattorney.com)  
**TERMINATED: 07/09/2010**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B)  
&18:2 – Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B)  
&18:2 – Possess with intent to  
distribute marijuana, a Schedule I  
controlled substance  
(3)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Highest Offense Level  
(Terminated)**

None

**Disposition**

**Disposition**

**Complaints**

None

**Disposition**

---

Assigned to: JUDGE SUSAN OKI  
MOLLWAY

**Defendant (14)**

**Jessica R. Walsh**  
*also known as*  
Jessica Hackman

represented by **Alvin P.K.K. Nishimura**  
P O Box 4510  
Kaneohe, HI 96744-8150  
522-6529  
Email: [aknlaw@hawaiiantel.net](mailto:aknlaw@hawaiiantel.net)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Pending Counts**

21:846=CD.F CONSPIRACY TO  
DISTRIBUTE CONTROLLED  
SUBSTANCE, 21:846, 841(a)(1)  
&841(b)(1)(B) – Conspiracy to  
manufacture, to distribute, and to  
possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(1)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Manufacture marijuana, a  
Schedule I controlled substance  
(2)

21:841A=CD.F CONTROLLED  
SUBSTANCE – SELL,  
DISTRIBUTE, OR DISPENSE,  
21:841(a)(1) &841(b)(1)(B) &18:2  
– Possess with intent to distribute  
marijuana, a Schedule I controlled  
substance  
(3)

**Disposition**

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

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**Plaintiff****USA**

represented by **Michael K. Kawahara**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
06/24/2010	<u>1</u>	SEALED INDICTMENT as to Roger Cusick Christie (1) count(s) 1, 2, 3, Sherryanne L. St. Cyr (2) count(s) 1, 2, 3, Susanne Lenore Friend (3) count(s) 1, 2, 3, Timothy M. Mann (4) count(s) 1, 2, 3, Richard Bruce Turpen (5) count(s) 1, 2, 3, 4, 5, Wesley Mark Sudbury (6) count(s) 1, 2, 3, 6, 7, Donald James Gibson (7) count(s) 1, 2, 3, 8, 9, Roland Gregory Ignacio (8) count(s) 1, 2, 3, 10, 11, Perry Emilio Policicchio (9) count(s) 1, 2, 3, 12, 13, John Debaptist Bouey, III (10) count(s) 1, 2, 3, 14, Michael B. Shapiro (11) count(s) 1, 2, 3, 15, Aaron George Zeeman (12) count(s) 1, 2, 3, Victoria C. Fiore (13) count(s) 1, 2, 3, Jessica R. Walsh (14) count(s) 1, 2, 3. (emt, ) (Entered: 06/25/2010)
06/24/2010	<u>2</u>	(ORIGINAL) INDICTMENT as to (01) Roger Cusick Christie, (02) Sherryanne L. St. Cyr, (03) Susanne Lenore Friend, (04) Timothy M. Mann, (05) Richard Bruce Turpen, (06) Wesley Mark Sudbury, (07) Donald James Gibson, (08) Roland Gregory Ignacio, (09) Perry Emilio Policicchio, (10) John Debaptist Bouey, III, (11) Michael B. Shapiro, (12) Aaron George Zeeman, (13) Victoria C. Fiore, (14) Jessica R. Walsh. (Attachments: # <u>1</u> Defendant (01) Information Sheet, # <u>2</u> Defendant (02) Information Sheet, # <u>3</u> Defendant (03) Information Sheet, # <u>4</u> Defendant (04) Information Sheet, # <u>5</u> Defendant (05) Information Sheet, # <u>6</u> Defendant (06) Information Sheet, # <u>7</u> Defendant (07) Information Sheet, # <u>8</u> Defendant (08) Information Sheet, # <u>9</u> Defendant (09) Information Sheet, # <u>10</u> Defendant (10) Information Sheet, # <u>11</u> Defendant (11) Information Sheet, # <u>12</u> Defendant (12) Information Sheet, # <u>13</u> Defendant (13) Information Sheet, # <u>14</u> Defendant (14) Information Sheet) (emt, ) (Entered: 06/25/2010)
07/08/2010	<u>17</u>	NOTICE OF PENDENCY OF ACTION – by USA as to (01) Roger Cusick Christie. (Attachments: # <u>1</u> Exhibit A)(emt, ) (Entered: 07/08/2010)
07/08/2010	<u>18</u>	NOTICE OF PENDENCY OF ACTION – by USA as to (05) Richard Bruce Turpen. (Attachments: # <u>1</u> Exhibit A)(emt, ) (Entered: 07/08/2010)
07/08/2010	<u>19</u>	NOTICE OF PENDENCY OF ACTION – by USA as to (09) Perry Emilio Policicchio. (Attachments: # <u>1</u> Exhibit A)(emt, ) . (Entered: 07/08/2010)
07/08/2010	<u>20</u>	NOTICE OF PENDENCY OF ACTION – by USA as to (08) Roland Gregory Ignacio. (Attachments: # <u>1</u> Exhibit A)(emt, ) (Entered: 07/08/2010)
07/08/2010		*** INDICTMENT UNSEALED as to (01) Roger Cusick Christie, (02) Sherryanne L. St. Cyr, (03) Susanne Lenore Friend, (04) Timothy M. Mann, (05)Richard Bruce Turpen, (06) Wesley Mark Sudbury, (07) Donald James Gibson, (08) Roland Gregory Ignacio, (09) Perry Emilio Policicchio, (10) John Debaptist Bouey, III, (11) Michael B. Shapiro, (12) Aaron George Zeeman, (13) Victoria C. Fiore, (14) Jessica R. Walsh. (emt, ) (Entered: 07/08/2010)
07/08/2010	<u>21</u>	ORDER UNSEALING INDICTMENT as to (01) Roger Cusick Christie, (02) Sherryanne L. St. Cyr, (03) Susanne Lenore Friend, (04) Timothy M. Mann, (05) Richard Bruce Turpen, (06) Wesley Mark Sudbury, (07) Donald James Gibson, (08) Roland Gregory Ignacio, (09) Perry Emilio Policicchio, (10) John Debaptist Bouey, III, (11)Michael B. Shapiro, (12) Aaron George Zeeman, (13) Victoria C. Fiore, (14) Jessica R. Walsh – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/8/10. (emt, )
CERTIFICATE OF SERVICE		

		Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/08/2010)
07/08/2010	<u>22</u>	APPLICATION AND ORDER FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM; ORDER as to (12) Aaron George Zeeman – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/8/10. (Attachments: # <u>1</u> Order)(emt, ) (Entered: 07/08/2010)
07/08/2010		COURT'S CERTIFICATE of Service – a copy of <u>22</u> "APPLICATION AND ORDER FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM; ORDER" as to (12) Aaron George Zeeman has been served on July 8, 2010. Registered Participants of CM/ECF received the document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). (emt, ) (Entered: 07/08/2010)
07/08/2010	<u>23</u>	WRIT OF HABEAS CORPUS AD PROSEQUENDUM Issued as to (12) Aaron George Zeeman for 7/9/10. (emt, ) (Entered: 07/08/2010)
07/08/2010		Arrest of (01) Roger Cusick Christie on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (02) Sherryanne L. St. Cyr on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (03) Susanne Lenore Friend on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (04) Timothy M. Mann on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (05) Richard Bruce Turpen on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (06) Wesley Mark Sudbury on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (07) Donald James Gibson on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (08) Roland Gregory Ignacio on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (09) Perry Emilio Policicchio on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (10) John Debaptist Bouey, III on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (11) Michael B. Shapiro on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (12) Aaron George Zeeman on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (13) Victoria C. Fiore on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/08/2010		Arrest of (14) Jessica R. Walsh on 7/8/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>24</u>	MOTION to Detain by USA as to Roger Cusick Christie, Sherryanne L. St. Cyr, Susanne Lenore Friend, Timothy M. Mann, Richard Bruce Turpen, Wesley Mark Sudbury, Donald James Gibson, Roland Gregory Ignacio, Perry Emilio Policicchio, John Debaptist Bouey, III, Michael B. Shapiro, Aaron George Zeeman, Victoria C. Fiore, Jessica R. Walsh. (Kawahara, Michael) (Entered: 07/09/2010)
07/09/2010	<u>25</u>	INFORMATION TO ESTABLISH PRIOR CONVICTION as to Richard Bruce Turpen <i>and</i> COS (Attachments: # <u>1</u> Exhibit 1)(Kawahara, Michael) (Entered: 07/09/2010)
07/09/2010	<u>26</u>	INITIAL Discovery Statement by Sherryanne L. St. Cyr <i>Notice and Request for Discovery</i> (Ishibashi, Dana) (Entered: 07/09/2010)
07/09/2010	<u>27</u>	EP : Initial Appearance; A &P to the Indictment as to <u>Sherryanne L. St. Cyr (2)</u> Count 1,2,3 and <u>Susanne Lenore Friend (3)</u> Count 1,2,3 and <u>Timothy M. Mann (4)</u> Count 1,2,3 and <u>Wesley Mark Sudbury (6)</u> Count 1,2,3,6,7 and <u>Donald James Gibson (7)</u> Count 1,2,3,8,9 held on 7/9/2010. Defendants 02, 03, 04, 06 and 07 present, all in custody. All defendants sworn to the financial affidavit and requests for appointment of counsel are hereby granted. <b>Added attorney Dana S. Ishibashi for (02) Sherryanne L. St. Cyr, Gurmail G. Singh for (03) Susanne Lenore Friend, Harlan Y. Kimura for (04) Timothy M. Mann, Michael J. Park for (06) Wesley Mark Sudbury and Richard S. Kawana for (07) Donald James Gibson.</b> Charges received. All defendants waive public reading of the Indictment. Pleas of Not Guilty entered as to all defendants. Jury Selection/Trial set for 09:00 AM on

		<p>9/8/2010 before CHIEF JUDGE SUSAN OKI MOLLWAY. Final Pretrial Conference set for 8/9/2010 10:00 AM before JUDGE LESLIE E KOBAYASHI. Motions due: 7/30/10. Response due: 8/13/10. <b>Detention Hearings as to Defendants 02 Sherryanne L. St. Cyr and 07 Donald James Gibson set: 7/12/10, 10:30am, Judge Chang. Detention Hearing as to Defendant 06 Wesley Mark Sudbury set: 7/12/10, 1:30pm, Judge Chang. Bond set as to <u>Susanne Lenore Friend (3) \$25,000.00 UNSECURED</u>: Government withdraws its Motion to Detain and agrees with the conditions of the Pretrial Services report. Defendant submits on the Pretrial Services report. (7g3) <b>Do not apply for/obtain a passport. Execute an affidavit or declaration which attests that you do not have access to, or are in possession of any passport. Submit to the U.S. District Court Clerk's Office by: July 16, 2010. Bond set as to <u>Timothy M. Mann (4) \$25,000.00 UNSECURED</u> : Government withdraws its Motion to Detain and agrees with the conditions of the Pretrial Services report. Defendant submits on the Pretrial Services report. (7g3) <b>Do not apply for/obtain a passport. Execute an affidavit or declaration which attests that you do not have access to, or are in possession of any passport. Submit to the U.S. District Court Clerk's Office by: July 16, 2010.</b> Defendants 02, 06 and 07 remanded to the custody of the USMS. Defendants 03 and 04 remanded to the custody of the USMS pending processing of paperwork. (withdrawing 24 Motion to Detain as to (03) Susanne Lenore Friend and (04) Timothy M. Mann (4) ***Location (LR) start as to (03) Susanne Lenore Friend and (04) Timothy M. Mann.) (FTR-Ctrm 7/9:16-9:34 AM.) (JUDGE J. MICHAEL SEABRIGHT)(emt, )<sup>No COS</sup> issued for this docket entry (Entered: 07/09/2010)</b></b></p>
07/09/2010	28	<p>EP : Initial Appearance; A &amp;P to the Indictment as to <u>Roger Cusick Christie (1) Count 1,2,3 and Richard Bruce Turpen (5) Count 1,2,3,4,5 and John Debaptist Bouey III (10) Count 1,2,3,14 and Michael B. Shapiro (11) Count 1,2,3,15</u> held on 7/9/2010. Defendants 01, 05, 10 and 11 present, all in custody. Defendants 01, 10 and 11 sworn to the financial affidavit and requests for appointment of counsel are hereby granted. <b>Added attorney Matthew C. Winter for (01) Roger Cusick Christie, Cynthia A. Kagiwada for (10) John Debaptist Bouey, III, Clifford B. Hunt for (11) Michael B. Shapiro. Court grants Mr. Edwards request for PROVISIONAL appointment as to Defendant 05 Richard Bruce Turpen. The financial affidavit will be presented at the Detention Hearing.</b> Charges received. All defendants waive public reading of the Indictment. Pleas of Not Guilty entered as to all defendants. Jury Selection/Trial set for 09:00 AM on 9/8/2010 before CHIEF JUDGE SUSAN OKI MOLLWAY. Final Pretrial Conference set for 8/9/2010 10:00 AM before JUDGE LESLIE E KOBAYASHI. Motions due: 7/30/10. Response due: 8/13/10. <b>Detention Hearings as to Defendants (10) John Debaptist Bouey, III and (11) Michael B. Shapiro set: 7/12/10, 1:30pm, Judge Chang. Detention Hearings as to Defendants (01) Roger Cusick Christie and (05) Richard Bruce Turpen set: 7/13/10, 10:30am, Judge Chang.</b> All defendants remanded to the custody of the USMS. (FTR-Ctrm 7/10:05-10:12 AM.) (JUDGE J. MICHAEL SEABRIGHT)(emt, )<sup>No COS</sup> issued for this docket entry (Entered: 07/09/2010)</p>
07/09/2010	29	<p>EP : Initial Appearance; A &amp;P to the Indictment as to <u>Roland Gregory Ignacio (8) Count 1,2,3,10,11 and Perry Emilio Policicchio (9) Count 1,2,3,12,13 and Aaron George Zeeman (12) Count 1,2,3 and Victoria C. Fiore (13) Count 1,2,3 and Jessica R. Walsh (14) Count 1,2,3</u> held on 7/9/2010. Defendants 08, 09, 12, 13, and 14 present, all in custody. Defendants 08, 09, 12 and 14 sworn to the financial affidavit and requests for appointment of counsel are hereby granted. <b>Added attorney Louis Michael Ching for (08) Roland Gregory Ignacio, Stuart N. Fujioka for (09) Perry Emilio Policicchio, Todd W. Eddins for (12) Aaron George Zeeman, Rustam Barbee, Michael Jay Green for (13) Victoria C. Fiore. Rustam Barbee appeared as CJA counsel for Defendant (13) Victoria C. Fiore who has retained Michael Green as counsel. Alvin Nishimura is PROVISIONALLY appointed as counsel for Defendant (14) Jessica R. Walsh.</b> Charges received. All defendants waive public reading of the Indictment. Pleas of Not Guilty entered as to all defendants. Jury Selection/Trial set for 09:00 AM on 9/8/2010 before CHIEF JUDGE SUSAN OKI MOLLWAY. Final Pretrial Conference set for 8/9/2010 10:00 AM before JUDGE LESLIE E KOBAYASHI. Motions due: 7/30/10. Response due: 8/13/10. <b>Bond set as to <u>Roland Gregory Ignacio (8) \$25,000.00 UNSECURED</u>: Government concurs with the Pretrial Services report and withdraws its Motion to Detain. Defendant agrees with the</b></p>

		<p>Pretrial Services report. <b>Bond set as to <u>Perry Emilio Policicchio (9)</u> \$25,000.00 UNSECURED:</b> Government concurs with the Pretrial Services report and withdraws its Motion to Detain. Defendant agrees with the Pretrial Services report. (7g1) Surrender any passport and all travel documents to the U.S. District Court Clerk's Office. Do not apply for/obtain a passport. Unless otherwise specified by the Court, the U.S. District Court Clerk's Office is directed to return the posted passport to the defendant upon disposition of this case. Surrender no later than: <b>48 hours after receipt of passport. Bond set as to <u>Victoria C. Fiore (13)</u> \$25,000.00 UNSECURED:</b> Government concurs with the Pretrial Services report and withdraws its Motion to Detain. Defendant submits on the Pretrial Services report. (7g1) Surrender any passport and all travel documents to the U.S. District Court Clerk's Office. Do not apply for/obtain a passport. Unless otherwise specified by the Court, the U.S. District Court Clerk's Office is directed to return the posted passport to the defendant upon disposition of this case. Surrender no later than: <b>passport will be surrendered today. Bond set as to <u>Jessica R. Walsh (14)</u> \$25,000.00 UNSECURED:</b> Government concurs with the Pretrial Services report and withdraws its Motion to Detain. Defendant agrees with the Pretrial Services report. (7g3) Do not apply for/obtain a passport. Execute an affidavit or declaration which attests that you do not have access to, or are in possession of any passport. Submit to the U.S. District Court Clerk's Office by: <b>July 16, 2010. Detention Hearing as to defendant (12) Aaron George Zeeman set: 7/13/10, 10:30am, Judge Chang.</b> Defendants 08, 09, 13, and 14 remanded to the custody of the USMS pending processing of paperwork. Defendant 12 remanded to the custody of the USMS. (withdrawing <u>24</u> Motion to Detain as to (08) Roland Gregory Ignacio (8), Perry Emilio Policicchio (9), Victoria C. Fiore (13), Jessica R. Walsh (14) ***Location (LR) start as to (08) Roland Gregory Ignacio, (09) Perry Emilio Policicchio, (13) Victoria C. Fiore, (14) Jessica R. Walsh.) (FTR-Ctrm 7/11:06-11:27 AM.) (JUDGE J. MICHAEL SEABRIGHT)(emt, )<sup>No COS issued for this docket entry</sup> (Entered: 07/09/2010)</p>
07/09/2010	<u>30</u>	Receipt for Surrender of Passport as to (13) Victoria C. Fiore Passport Number 027158261 issued by USA. (emt, ) (Entered: 07/09/2010)
07/09/2010	<u>31</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (01) Roger Cusick Christie. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>32</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (02) Sherryanne L. St. Cyr. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>33</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (03) Susanne Lenore Friend. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>34</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (04) Timothy M. Mann. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>35</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (05) Richard Bruce Turpen. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>36</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (06) Wesley Mark Sudbury. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>37</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (07) Donald James Gibson. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>38</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (08) Roland Gregory Ignacio. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>39</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (09) Perry Emilio Policicchio. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>40</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (10) John Debaptist Bouey, III. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>41</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (11) Michael B. Shapiro. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>42</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (12) Aaron George Zeeman. (emt, ) (Entered: 07/12/2010)

07/09/2010	<u>43</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to Victoria C. Fiore. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>44</u>	Arrest Warrant Returned Executed on 7/8/10 in case as to (14) Jessica R. Walsh. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>45</u>	CJA 23 Financial Affidavit – by (01) Roger Cusick Christie. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>46</u>	CJA 23 Financial Affidavit – by (02) Sherryanne L. St. Cyr. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>47</u>	CJA 23 Financial Affidavit – by (03) Susanne Lenore Friend. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>48</u>	CJA 23 Financial Affidavit – by (04) Timothy M. Mann. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>49</u>	CJA 23 Financial Affidavit – by (06) Wesley Mark Sudbury. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>50</u>	CJA 23 Financial Affidavit – by (07) Donald James Gibson. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>51</u>	CJA 23 Financial Affidavit – by (08) Roland Gregory Ignacio. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>52</u>	CJA 23 Financial Affidavit – by (09) Perry Emilio Policicchio. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>53</u>	CJA 23 Financial Affidavit – by (10) John Debaptist Bouey, III. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>54</u>	CJA 23 Financial Affidavit – by (11) Michael B. Shapiro. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>55</u>	CJA 23 Financial Affidavit – by (12) Aaron George Zeeman. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>56</u>	CJA 23 Financial Affidavit – by (14) Jessica R. Walsh. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>57</u>	CJA 20 as to (02) Sherryanne L. St. Cyr: Dana Ishibashi, Esq. appointed for (02) Sherryanne L. St. Cyr – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>58</u>	CJA 20 as to (03) Susanne Lenore Friend: Gurmail Gary Singh, Esq. appointed for (03) Susanne Lenore Friend – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>59</u>	CJA 20 as to (04) Timothy M. Mann: Harlan Kimura, Esq. appointed for (04) Timothy M. Mann – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>60</u>	CJA 20 as to (05) Richard Bruce Turpen: Barry D. Edwards, Esq. appointed for (05) Richard Bruce Turpen – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>61</u>	CJA 20 as to (06) Wesley Mark Sudbury: Michael J. Park, Esq. appointed for (06) Wesley Mark Sudbury – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>62</u>	CJA 20 as to (07) Donald James Gibson: Richard S. Kawana, Esq. appointed for (07) Donald James Gibson – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>63</u>	CJA 20 as to (08) Roland Gregory Ignacio: Louis Michael Ching, Esq. appointed for (08) Roland Gregory Ignacio – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)

07/09/2010	<u>64</u>	CJA 20 as to (09) Perry Emilio Policicchio: Stuart Fujioka, Esq. appointed for (09) Perry Emilio Policicchio – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>65</u>	CJA 20 as to (10) John Debaptist Bouey, III: Cynthia Kagiwada, Esq. appointed for (10) John Debaptis Bouey, III – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>66</u>	CJA 20 as to (11) Michael B. Shapiro: Clifford B. Hunt, Esq. appointed for (11) Michael B. Shapiro – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>67</u>	CJA 20 as to (12) Aaron George Zeeman: Todd Eddins, Esq. appointed for (12) Aaron George Zeeman – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>68</u>	CJA 20 as to (13) Victoria C. Fiore: Rustam Barbee, Esq. appointed for (13) Victoria C. Fiore – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. Note: Defendant (13) Victoria C. Fiore has retained Michael Jay Green, Esq., refer to docket entry <u>29</u> . (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>69</u>	CJA 20 as to (14) Jessica R. Walsh: Alvin Nishimura, Esq. appointed for (14) Jessica R. Walsh – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>70</u>	ORDER SETTING CONDITIONS OF RELEASE as to (03) Susanne Lenore Friend – signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>71</u>	APPEARANCE BOND as to (03) Susanne Lenore Friend – Signed by JUDGE J. MICHAEL SEABRIGHT. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>72</u>	ORDER SETTING CONDITIONS OF RELEASE as to (04) Timothy M. Mann – signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>73</u>	APPEARANCE BOND as to (04) Timothy M. Mann – Signed by JUDGE J. MICHAEL SEABRIGHT. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>74</u>	ORDER SETTING CONDITIONS OF RELEASE as to (08) Roland Gregory Ignacio – signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>75</u>	APPEARANCE BOND as to (08) Roland Gregory Ignacio – Signed by JUDGE J. MICHAEL SEABRIGHT. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>76</u>	ORDER SETTING CONDITIONS OF RELEASE as to (09) Perry Emilio Policicchio – signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>77</u>	APPEARANCE BOND as to (09) Perry Emilio Policicchio – Signed by JUDGE J. MICHAEL SEABRIGHT. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>78</u>	ORDER SETTING CONDITIONS OF RELEASE as to Victoria C. Fiore – signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>79</u>	APPEARANCE BOND as to (13) Victoria C. Fiore – Signed by JUDGE J. MICHAEL SEABRIGHT. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>80</u>	ORDER SETTING CONDITIONS OF RELEASE as to (14) Jessica R. Walsh – signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>81</u>	APPEARANCE BOND as to (14) Jessica R. Walsh – Signed by JUDGE J. MICHAEL SEABRIGHT. (emt, ) (Entered: 07/12/2010)
07/09/2010	<u>82</u>	DECLARATION of Defendant No. 04 Timothy M. Mann Regarding Passport – by (04) Timothy M. Mann. (emt, ) (Entered: 07/12/2010)

07/12/2010	<u>83</u>	<p><b>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT</b> as to (01) Roger Cusick Christie – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (01) Roger Cusick Christie set for 7/13/2010 10:30 AM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)</p>
07/12/2010	<u>84</u>	<p><b>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT</b> as to (02) Sherryanne L. St. Cyr – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (02) Sherryanne L. St. Cyr set for 7/12/2010 10:30 AM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)</p>
07/12/2010	<u>85</u>	<p><b>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT</b> as to (05) Richard Bruce Turpen – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (05) Richard Bruce Turpen set for 7/13/2010 10:30 AM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)</p>
07/12/2010	<u>86</u>	<p><b>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT</b> as to (06) Wesley Mark Sudbury – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (06) Wesley Mark Sudbury set for 7/12/2010 01:30 AM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)</p>
07/12/2010	<u>87</u>	<p><b>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT</b> as to (07) Donald James Gibson – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (07) Donald James Gibson set for 7/12/2010 10:30 AM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)</p>
07/12/2010	<u>88</u>	<p><b>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT</b> as to (10) John Debaptist Bouey, III – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (10) John Debaptist Bouey, III set for 7/12/2010 01:30 PM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)</p>
07/12/2010	<u>89</u>	<p><b>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT</b> as to (11) Michael B. Shapiro – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (11) Michael B. Shapiro set for 7/12/2010 01:30 PM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/>

		CERTIFICATE OF SERVICE
		Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)
07/12/2010	<u>90</u>	<p>ORDER OF TEMPORARY DETENTION PENDING HEARING PURSUANT TO BAIL REFORM ACT as to (12) Aaron George Zeeman – Signed by JUDGE J. MICHAEL SEABRIGHT on 7/9/10. (Detention Hearing for (12) Aaron George Zeeman set for 7/13/2010 10:30 AM before JUDGE KEVIN S.C. CHANG.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/12/2010)</p>
07/12/2010	<u>91</u>	<p>EP : Detention Hearing as to (02) Sherryanne L. St. Cyr, (07) Donald James Gibson held on 7/12/2010. Defendants (02) Sherryanne L. St. Cyr and (07) Donald James Gibson both present in custody. <b>Bond set as to Sherryanne L. St. Cyr (2) \$25,000.00 UNSECURED</b> : Defendant and government agree with the Pretrial Services report. Motion to Detain denied and terminated. (7g1) Surrender any passport and all travel documents to the U.S. District Court Clerk's Office. Do not apply for/obtain a passport. Unless otherwise specified by the Court, the U.S. District Court Clerk's Office is directed to return the posted passport to the defendant upon disposition of this case. Surrender no later than: <u>July 19, 2010</u>. <b>Bond set as to Donald James Gibson (7) \$25,000.00 UNSECURED</b> : Defendant concurs with the Pretrial Services. Government has no objection to the Pretrial Services report. Motion to Detain denied and terminated. Other Conditions: As provided in the Second Chance Act of 2007, Pretrial Services is directed to pay the defendant's airline ticket (one-way) from court to the island of residence. The Court has determined that this is an emergency (one time event), the defendant lacks the financial resources, and a basic humanitarian need is being met (transportation). Defendants (02) and (07) remanded to the custody of the USMS for processing of paperwork. (denying <u>24</u> Motion to Detain as to Sherryanne L. St. Cyr (2), Donald James Gibson (7); Motions terminated as to Sherryanne L. St. Cyr, Donald James Gibson: <u>24</u> MOTION to Detain filed by USA. ***Location (LR) start as to (02) Sherryanne L. St. Cyr, (07) Donald James Gibson) (FTR-Ctrm 5/10:37-10:46 AM.) (JUDGE KEVIN S.C. CHANG)(emt, )No COS issued for this docket entry . (Entered: 07/12/2010)</p>
07/12/2010	<u>92</u>	<p>EP : Detention Hearing as to (06) Wesley Mark Sudbury, (10) John Debaptist Bouey, III, (11) Michael B. Shapiro held on 7/12/2010. Defendants (06) Wesley Mark Sudbury, (10) John Debaptist Bouey, III and (11) Michael B. Shapiro present, all in custody. <b>Bond set as to Wesley Mark Sudbury (6) \$25,000.00 UNSECURED</b>: Defendant stipulates to the Pretrial Services report. Government has no objection to the Pretrial Services report. Motion to Detain denied and terminated. (7g1) Surrender any passport and all travel documents to the U.S. District Court Clerk's Office. Do not apply for/obtain a passport. Unless otherwise specified by the Court, the U.S. District Court Clerk's Office is directed to return the posted passport to the defendant upon disposition of this case. Surrender no later than: <u>July 19, 2010</u>. The court directs the USMS to provide a one-way ticket for defendant's return to the Big Island. <b>Bond set as to John Debaptist Bouey III (10) \$25,000.00 UNSECURED</b>: Defendant submits on the Pretrial Services report. Government has no objection to the Pretrial Services report. Motion to Detain denied and terminated. As provided in the Second Chance Act of 2007, Pretrial Services is directed to pay for the defendant's airline ticket (one-way) from court to the island of residence. The Court has determined that this is an emergency (one time event), the defendant lacks the financial resources, and a basic humanitarian need is being met (transportation). <b>Bond set as to Michael B. Shapiro (11) \$25,000.00 UNSECURED</b>: Defendant concurs with the Pretrial Services report. Government has no objection to the Pretrial Services report. Motion to Detain denied and terminated. As provided in the Second Chance Act of 2007, Pretrial Services is directed to pay for the defendant's airline ticket (one-way) from court to the island of residence. The Court has determined that this is an emergency (one time event), the defendant lacks the financial resources, and a basic humanitarian need is being met (transportation). Defendants are remanded to the custody of the USMS pending processing of paperwork. (denying <u>24</u> Motion to Detain as to Wesley Mark Sudbury</p>

		(6), John Debaptist Bouey III (10), Michael B. Shapiro (11); Motions terminated as to Wesley Mark Sudbury, John Debaptist Bouey, III, Michael B. Shapiro: <u>24</u> MOTION to Detain filed by USA. ***Location (LR) start as to (06) Wesley Mark Sudbury, (10) John Debaptist Bouey, III, (11) Michael B. Shapiro.) (FTR-Ctrm 5/1:38-1:52 PM.) (JUDGE KEVIN S.C. CHANG)(emt, ) <sup>No COS issued for this docket entry</sup> Modified on 7/12/2010 (emt, ). (Entered: 07/12/2010)
07/12/2010	<u>94</u>	ORDER SETTING CONDITIONS OF RELEASE as to (02) Sherryanne L. St. Cyr – signed by MAGISTRATE JUDGE KEVIN S.C. CHANG on 7/12/10. (emt, ) (Entered: 07/13/2010)
07/12/2010	<u>95</u>	APPEARANCE BOND as to (02) Sherryanne L. St. Cyr. – Signed by MAGISTRATE JUDGE KEVIN S. C. CHANG. (emt, ) (Entered: 07/13/2010)
07/12/2010	<u>96</u>	ORDER SETTING CONDITIONS OF RELEASE as to (07) Donald James Gibson – signed by MAGISTRATE JUDGE KEVIN S.C. CHANG 7/12/10. (emt, ) (Entered: 07/13/2010)
07/12/2010	<u>97</u>	APPEARANCE BOND as to (07) Donald James Gibson – Signed by MAGISTRATE JUDGE KEVIN S. C. CHANG. (emt, ) (Entered: 07/13/2010)
07/13/2010	<u>93</u>	EP : Detention Hearing as to (01) Roger Cusick Christie, (05) Richard Bruce Turpen, (12) Aaron George Zeeman held on 7/13/2010. Defendants (01) Roger Cusick Christie, (05) Richard Bruce Turpen and (12) Aaron George Zeeman, present, all in custody. <b>As to Defendant (01) Roger Cusick Christie</b> Defendant requests for release. Government has concerns as to release. <b>Motion to Detain granted and terminated.</b> Government to prepare the order. <b>Bond set as to Richard Bruce Turpen (5) \$25,000.00 UNSECURED:</b> Defendant sworn to the financial affidavit and request for court appointed attorney is granted. Barry Edwards is appointed as counsel for defendant. Defendant submits on the Pretrial Services report. Government has no objection to the Pretrial Services report. Motion to Detain denied and terminated. Other Conditions: As provided in the Second Chance Act of 2007, Pretrial Services is directed to pay for the defendant's airline ticket (one-way) from court to the island of residence. The Court has determined that this is an emergency (one time event), the defendant lacks the financial resources, and a basic humanitarian need is being met (transportation). <b>Bond set as to (12) Aaron George Zeeman (12) \$25,000.00 UNSECURED:</b> Defendant submits on the Pretrial Services report. Government has no objection to the Pretrial Services report. Motion to Detain denied and terminated. (7g1) Surrender any passport and all travel documents to the U.S. District Court Clerk's Office. Do not apply for/obtain a passport. Unless otherwise specified by the Court, the U.S. District Court Clerk's Office is directed to return the posted passport to the defendant upon disposition of this case. Surrender no later than: <b>July 20, 2010.</b> Other Conditions: As provided in the Second Chance Act of 2007, Pretrial Services is directed to pay for the defendant's airline ticket (one-way) from court to the island of residence. The Court has determined that this is an emergency (one time event), the defendant lacks the financial resources, and a basic humanitarian need is being met (transportation). Defendant 01 remanded to the custody of the USMS. Defendants 05 and 12 remanded to the custody of the USMS pending processing of paperwork. (granting <u>24</u> Motion to Detain as to Roger Cusick Christie (1); denying <u>24</u> Motion to Detain as to Richard Bruce Turpen (5), Aaron George Zeeman (12); Motions terminated as to (01) Roger Cusick Christie, (05) Richard Bruce Turpen, (12) Aaron George Zeeman: <u>24</u> MOTION to Detain filed by USA. ***Location (LR) start as to(05) Richard Bruce Turpen, (12) Aaron George Zeeman.) (FTR-Ctrm 5/10:32-10:49 AM.) (JUDGE KEVIN S.C. CHANG)(emt, ) <sup>No COS issued for this docket entry</sup> (Entered: 07/13/2010)
07/13/2010	<u>100</u>	CJA 23 Financial Affidavit – by (05) Richard Bruce Turpen. (emt, ) (Entered: 07/14/2010)
07/13/2010	<u>112</u>	ASSERTION OF FIFTH AND SIXTH AMENDMENT RIGHTS – by (11) Michael B. Shapiro. (emt, ) (Entered: 07/15/2010)
07/14/2010	<u>98</u>	MOTION for Revocation of Detention Order Pursuant to 18 U.S.C. Section 3145(b) and Motion to Release Defendant on the Bail Conditions Proposed By Pretrial Services; Certificate of Service by Roger Cusick Christie. (Winter, Matthew) (Entered: 07/14/2010)
07/14/2010	<u>99</u>	NOTICE OF HEARING ON MOTION in case as to Defendant (01) Roger Cusick Christie <u>98</u> Defendant (01) Roger Cusick Christie's MOTION for Revocation of

		<p>Detention Order Pursuant to 18 U.S.C. Section 3145(b) and Motion to Release Defendant on the Bail Conditions Proposed By Pretrial Services set for hearing 7/16/2010 at 10:00 AM before JUDGE ALAN C KAY. (lts, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/14/2010)</p>
07/14/2010	<u>101</u>	ORDER SETTING CONDITIONS OF RELEASE as to (06) Wesley Mark Sudbury – signed by MAGISTRATE JUDGE KEVIN S.C. CHANG on 7/13/10. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>102</u>	APPEARANCE BOND as to (06) Wesley Mark Sudbury – Signed by MAGISTRATE JUDGE KEVIN S. C. CHANG. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>103</u>	ORDER SETTING CONDITIONS OF RELEASE as to (10) John Debaptist Bouey, III – signed by MAGISTRATE JUDGE KEVIN S.C. CHANG on 7/13/10. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>104</u>	APPEARANCE BOND as to (10) John Debaptist Bouey, III – Signed by MAGISTRATE JUDGE KEVIN S. C. CHANG. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>105</u>	ORDER SETTING CONDITIONS OF RELEASE as to (11) Michael B. Shapiro – signed by MAGISTRATE JUDGE KEVIN S.C. CHANG ON 7/13/10. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>106</u>	APPEARANCE BOND as to (11) Michael B. Shapiro – Signed by MAGISTRATE JUDGE KEVIN S. C. CHANG. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>107</u>	ORDER SETTING CONDITIONS OF RELEASE as to (05) Richard Bruce Turpen – signed by MAGISTRATE JUDGE KEVIN S.C. CHANG on 7/13/10. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>108</u>	APPEARANCE BOND as to (05) Richard Bruce Turpen – Signed by MAGISTRATE JUDGE KEVIN S. C. CHANG. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>109</u>	ORDER SETTING CONDITIONS OF RELEASE as to (12) Aaron George Zeeman – signed by MAGISTRATE JUDGE KEVIN S.C. CHANG on 7/13/10. (emt, ) (Entered: 07/14/2010)
07/14/2010	<u>110</u>	APPEARANCE BOND as to (12) Aaron George Zeeman – Signed by MAGISTRATE JUDGE KEVIN S. C. CHANG. (emt, ) (Entered: 07/14/2010)
07/15/2010	<u>111</u>	MEMORANDUM in Opposition by USA as to Roger Cusick Christie re <u>98</u> MOTION for Revocation of Detention Order Pursuant to 18 U.S.C. Section 3145(b) and Motion to Release Defendant on the Bail Conditions Proposed By Pretrial Services; Certificate of Service and COS (Kawahara, Michael) (Entered: 07/15/2010)
07/15/2010	<u>115</u>	STATEMENT of Jessica Walsh Re: Passport – by (14) Jessica R. Walsh. (emt, ) (Entered: 07/16/2010)
07/16/2010	<u>113</u>	<p>ORDER DETAINING DEFENDANT ROGER CUSICK CHRISTIE WITHOUT BAIL as to (01) Roger Cusick Christie <u>24</u> – Signed by JUDGE KEVIN S.C. CHANG on 7/16/10. ( Follows oral order of 7/13/10, <u>23</u>.) (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/16/2010)</p>
07/16/2010	<u>116</u>	EP : Motion Hearing re <u>98</u> Defendant Roger Cusick Christie's MOTION for Revocation of Detention Order Pursuant to 18 U.S.C. Section 3145(b) and Motion to Release Defendant on the Bail Conditions Proposed By Pretrial Services as to (01) Roger Cusick Christie held on 7/16/2010. Defendant present and in custody. Oral Argument Held. The Motion is hereby Denied. Court to prepare the written Order. Defendant remanded to the Custody of the U.S. Marshal's. (denying <u>98</u> Motion for

		Revocation of Detention Order pursuant to 18 U.S.C. 3145(b) and Motion to Release Defendant on the Bail Conditions Proposed by Pretrial Services as to Roger Cusick Christie (1); Motion terminated as to Roger Cusick Christie; <u>98</u> MOTION for Revocation of Detention Order Pursuant to 18 U.S.C. Section 3145(b) and Motion to Release Defendant on the Bail Conditions Proposed By Pretrial Services filed by Roger Cusick Christie.) (Court Reporter Katherine Eismann.) (JUDGE ALAN C KAY)(emt, ) <sup>No</sup> COS issued for this docket entry (Entered: 07/16/2010)
07/16/2010	<u>118</u>	Receipt for Surrender of Passport as to (02) Sherryanne L. St. Cyr Passport Number 451798770 issued by USA. (emt, ) (Entered: 07/19/2010)
07/19/2010	<u>117</u>	EO : The trial judge has been informed that, in a conversation recorded by the government, Defendant Roger Christie claimed to be describing an exchange between the judge and himself that occurred when he was called by the defense in the trial held in United States v. Michael Trent Barnes. The government is directed to make the content of that recorded description available to counsel for all Defendants no later than July 21, 2010. If the government has a transcript of the Barnes trial proceedings, the government should also make available the pages of that transcript involving Mr. Christie by the same date. If the government does not have such a transcript, the government is to so inform the court by July 21, 2010. If, after reviewing those materials, counsel for any party seeks any action by the trial judge, that counsel should so state in writing (by motion or, depending on the action requested, by letter) no later than July 30, 2010. (JUDGE SUSAN OKI MOLLWAY)(tbf, ) <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/19/2010)
07/19/2010	<u>119</u>	(copy) DECLARATION of Defendant No. 03 Susanne Lenore Friend Regarding Passport – submitted by (03) Susanne Lenore Friend. Note: Document prepared by Defendant (03) Susanne Lenore Friend and a copy submitted to the Clerks Office through special agent; document was not submitted by Defendant's counsel. (emt, ) (Entered: 07/19/2010)
07/19/2010	<u>120</u>	Receipt for Surrender of Passport as to (06) Wesley Mark Sudbury Passport Number 702178487 issued by Germany. (emt, ) (Entered: 07/19/2010)
07/20/2010	<u>121</u>	ORDER DENYING DEFENDANT'S MOTION FOR REVOCATION OF DETENTION ORDER <u>113</u> as to (01) Roger Cusick Christie – Signed by JUDGE ALAN C KAY on 7/20/10. (Follows oral order of 7/16/10; <u>116</u> . The Court affirms Magistrate Judge Chang's Detention Order, and <u>113</u> Defendant's Motion for Revocation of Detention Order is DENIED. In accordance with Magistrate Judge Chang's Detention Order, the court orders that Defendant be held without bond pending trial of this matter.) (emt, ) <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/20/2010)
07/20/2010	<u>122</u>	TRANSCRIPT Designation and Ordering Form by Roger Cusick Christie for proceedings held on 07/16/2010 before Judge Alan C. Kay, Transcript due by 7/27/2010. (Winter, Matthew) (Entered: 07/20/2010)
07/20/2010	<u>123</u>	(document re-entered; refer to docket entry <u>124</u> ) NOTICE OF FRAP 9(a) APPEAL; Certificate of Service – by (01) Roger Cusick Christie as to ( <del>121</del> ORDER DENYING DEFENDANT'S MOTION FOR REVOCATION OF DETENTION ORDER) ( Filing fee \$ FPD.) (emt, ) <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry. The Ninth Circuit Court of Appeals received the Notice of Appeal through ECF. Modified on 7/20/2010 document re-entered to reflect as an "Notice of Appeal – Interlocutory" to ensure electronic transmission to Ninth Circuit Court of Appeals. (emt, ). (Entered: 07/20/2010)
07/20/2010	<u>124</u>	NOTICE OF FRAP 9(a) APPEAL; Certificate of Service – by (01) Roger Cusick Christie re ( <u>121</u> ORDER DENYING DEFENDANT'S MOTION FOR REVOCATION OF DETENTION ORDER) Filing fee \$ FPD. Note: Document re-entered

		<p>to reflect as a "Notice of Appeal – Interlocutory"; previous entry was entered as a "Notice of Appeal – Conditions of Release". (emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry. The Ninth Circuit Court of Appeals received the Notice of Appeal through ECF. (Entered: 07/20/2010)</p>
07/20/2010	<u>125</u>	<p><b>ATTORNEY APPEAL PACKET</b> re <u>124</u> Notice of Appeal filed by (01) Roger Cusick Christie. (Attachments: # <u>1</u> Notice of Appeal, # <u>2</u> Instructions for Criminal Appeals, # <u>3</u> Additional Instructions for Transcript Designation and Ordering Form, # <u>4</u> Letter Re Court Reporters, # <u>5</u> Transcript Designation and Ordering Form, # <u>6</u> Docket Sheet)(emt, )</p> <hr/> <p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications were served by first class mail on the date of this docket entry (Entered: 07/20/2010)</p>
07/21/2010	<u>126</u>	<p>TRANSCRIPT of Proceedings, Motion Hearing, as to Roger Cusick Christie– held on July 16, 2010, before Senior Judge Alan C. Kay. Court Reporter Katherine Eismann, Telephone number (808)542–3406. Transcript may be viewed at the court public terminal or ordered through the Court Reporter before the deadline for Release of Transcript. Remote availability of electronic transcripts is regulated by FRCP 5.2(a), FRCrP 49.1(a) and FRBP 9037(a) Redaction Request due 8/9/2010. Redacted Transcript Deadline set for 8/18/2010. Release of Transcript Restriction set for 10/18/2010. (26 pp.) (ke@hid.uscourts.gov) (Entered: 07/21/2010)</p>