

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,
Plaintiff,

vs.

MICHAEL KIRK MOORE, JR.,
Defendant.

CASE NO: **2:23CR10 HCN**

DETENTION ORDER

The defendant admits allegation number(s) 1-2 of the petition regarding violation of conditions of pretrial release from November 4, 2024. Based on this admission, the court finds by clear and convincing evidence that the defendant has violated the conditions of release. The court held a detention hearing under the Bail Reform Act, 18 U.S.C. § 3142(f) and § 3148. The court concludes the defendant must be detained pending trial.

In this case, a presumption of detention does not apply because the court finds insufficient evidence exists that the violation constitutes a federal, state, or local felony committed while on release [Click or tap here to enter text.](#)

Based on the evidence presented and information of record, the court finds the defendant is unlikely to abide by any condition or combination of conditions of release.

Specifically, the court finds that the defendant

- ☐ has a criminal record which indicates a propensity to violate the law and court orders;
- ☐ has a criminal record which indicates a propensity to violate court orders;
- ☒ has violated the conditions of release previously imposed by the court;
- ☐ has a propensity to harm or threaten harm to others;
- ☐ is addicted or abuses mood-altering chemicals and is likely to continue such conduct and violate the law if released;
- ☐ was not truthful with pretrial services during his interview and therefore poses a substantial risk of noncompliance with supervision;
- ☐ is not a United States citizen, is subject to an ICE detainer, and faces deportation;
- ☐ is not a United States citizen and could flee the country before trial;
- ☐ has substantial contacts with a foreign country and could flee the country before trial;
- ☐ has limited contacts with the community;
- ☐ lacks a stable residence;

- ☐ has limited employment contacts;
- ☐ has failed to appear for court proceedings in the past;
- ☐ is currently in state custody;
- ☐ committed the alleged crime while on supervision;
- ☐ committed the alleged crime while on bond;
- ☐ has mental health issues which will pose a risk of harm if the defendant is released;
- ☐ waived the right to a detention hearing;

and conditions which restrict Defendant's travel, personal contacts, and possession of drugs, alcohol, and/or firearms; require reporting, education, employment, or treatment; or monitor Defendant's movements or conduct; or any combination of these conditions or others currently proposed or available (see 18 U.S.C. § 3142(c)), will not sufficiently ameliorate the risks posed if the defendant is released.

Defendant has violated his conditions of release yet again, and this warrants detention. Before explaining why this newest violation of pre-trial release warrants detention, the court must explain the legal foundation for its ruling, which defendant disputed at the hearing. Section 3148 of Title 18 provides the basis for the revocation of pre-trial release and the imposition of detention. Section 3148(b) authorizes the court to revoke pretrial release and detain a defendant if the court finds: (1) clear and convincing evidence that the defendant has violated a condition of pre-trial release; and (2)(a) he is an unmanageable risk of nonappearance or danger to the community under section 3142 of Title 18; or (b) he is "unlikely to abide by any condition or combination of conditions of release." Even though Congress specifically stated that detention can occur *either* under the reasons provided under section 3142 *or* the unlikelihood that the defendant will abide by conditions of release, defendant claims that section 3148 only allows detention where the unlikelihood of abiding by conditions of release leads the court to conclude that defendant is an unmanageable risk of no appearance or danger. This reading violates at least two canons of statutory construction. At the outset, the court acknowledges that it must interpret statutes according to their plain language. Consequently, when Congress uses "or" in the disjunctive, the court should consider the clauses preceding and proceeding the disjunctive conjunction as alternatives. Moreover, the court acknowledges that it cannot interpret statutes in a way that renders any part superfluous. If Congress intended the detention decision to be governed solely by the factors of section 3142 (i.e., manageability of risk of nonappearance and danger), then it did not need to add the separate alternative for detention of allowing it for an unlikelihood of abiding by conditions. Indeed, reading section 3148(b) as defendant urges would render the entire provision in section 3148(b)(2)(B) superfluous. This the court cannot and will not do. Consequently, under the plain language of section 3148(b) and the canons of statutory construction, the court has authority to detain for the violation of its conditions where established by clear and convincing evidence.

The court finds by clear and convincing evidence that defendant has violated the conditions of release by communicating with other co-defendants. The court precluded all co-defendants from communicating with each other about this case and previously warned them in a hearing after it was brought to the court's attention that this was occurring. This condition does not adversely impact the defendants' ability to prepare a defense because, as the court recognized, they have the ability to communicate through counsel both their own and with other co-defendant's counsel who are within the defendants' joint defense agreement. The pre-trial requirement that defendants not communicate about this case *with each other* was clear as to what it required and was clearly violated by the messages that defendant sent to his other co-defendants.

Given that defendant violated the non-communication condition of his pre-trial release, the court finds that revocation of pre-trial release is warranted because this is not defendant's first violation of this court's orders. Early on in this case, the defendant provided documents in which he stated that he did not recognize the jurisdiction of this court and would not comply with its orders. He was true to his word but not complying with what the court ordered. During the first revocation hearing, he refused to cooperate at the hearing and repeated the non-responsive gibberish that is often associated with the sovereign citizen movement. Hence, he was detained. After thinking better of his prior noncompliance, agreeing to abide by the court's conditions, and recognize the court's jurisdiction, the court released him and placed him on conditions of release again, which precluded him from discussing this case with other co-defendants. To monitor compliance with this condition, the court ordered monitoring of defendant's computer and cellular telephone. Defendant began communicating with other co-defendants using an app that allowed him to get around the monitoring software of United States Probation. Defendant cannot seriously contend that he understood the court's condition to apply only to "potential co-defendants" because he could not be aware of potential co-defendants, and the court would not require the United States to disclose to him those who it was considering indicting. Thus, what defendant's choice of communication shows is an attempt to evade detection in his communications with his co-defendants knowing that it was not allowed. Defendant's prior non-compliance along with his current non-compliance show that he is uninterested in abiding by the court's conditions of release. Therefore, they are revoked.

During the hearing, counsel for defendant claimed that defendant was being persecuted for his beliefs. This is wrong. As the court said on the record, the court does not care whether defendant holds certain beliefs. The court cares about how defendant acts. And defendants' acts have demonstrated that he does not abide by the clear conditions that the court has set. This is not political persecution but holding defendant accountable for his for repeatedly disobedient actions. Therefore, defendant is detained in the custody of the United States Attorney General pending resolution of this action.

Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. The defendant must be afforded a reasonable opportunity to consult privately with defense counsel. On order of the United States Court or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to the United States marshal for a court appearance.

Dated November 8, 2024

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Jared Bennett', is written over a horizontal line.

Magistrate Judge Jared Bennett