



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

EMN:TAD/SPN
F#2015R00079

*271 Cadman Plaza East
Brooklyn, New York 11201*

March 17, 2015

By Hand Delivery and ECF

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Tairod Nathan Webster Pugh
Criminal Docket No. 15-116 (NGG)

Dear Judge Garaufis:

The defendant Tairod Nathan Webster Pugh is scheduled to be arraigned on the above-referenced indictment tomorrow, March 18, 2015, at 11:00 a.m. The government respectfully submits this letter to: (1) provide the Court with background; (2) request that the John Doe magistrate docket associated with the complaint be converted to a docket in the defendant's true name; (3) request that certain documents be unsealed; and (4) inform the Court of the government's position regarding detention.

I. Procedural And Factual Background

On March 16, 2015, a grand jury in this District returned an indictment charging the defendant with attempting to provide material support to the Islamic State of Iraq and the Levant ("ISIL"), in violation of 18 U.S.C. § 2339B, and obstruction and attempted obstruction of an official proceeding, in violation of 18 U.S.C. §§ 1512(c)(1) and 1512(c)(2).

A. ISIL

Since 2013, ISIL, which is designated by the Department of States as a foreign terrorist organization, has claimed credit for numerous terrorist activities, including seizing Mosul, a city in northern Iraq, launching rocket attacks on eastern Lebanon in March 2014, and beheading foreign journalists and aid workers. These terrorist activities are part of ISIL's broader goal of forming an Islamic state or "caliphate" in Iraq and Syria.

B. The Defendant's Attempt to Join ISIL

The defendant is a U.S. citizen whose last known address in the United States was in Neptune, New Jersey. From in or about 1986 to 1990, the defendant served in the United States Air Force as an avionics instrument specialist. While in the Air Force, the defendant received training in the installation and maintenance of aircraft engine, navigation, and weapons systems. After leaving the Air Force, the defendant worked for a number of companies in the United States and Middle East as an avionics specialist and airplane mechanic. In December 2014, the defendant was fired from his most recent job in Kuwait as an airplane mechanic.

On January 10, 2015, the defendant flew from Egypt to Turkey in an effort to cross the border into Syria to join ISIL and fight violent jihad. Turkish authorities denied the defendant entry into the country, however, and sent him on a return flight to Egypt. Upon his arrival in Egypt, the defendant was carrying multiple electronic devices, including a laptop computer, four USB thumb drives that had been damaged and stripped of their plastic casings, and an iPod that had been wiped clean of data. The defendant also possessed a cellular telephone that contained, among other things, a photograph of a machinegun. The defendant was soon thereafter deported from Egypt to the United States on a flight that landed at John F. Kennedy International Airport on January 15, 2015.

On January 14, 2015, agents from the New York Joint Terrorism Task Force ("JTTF") obtained a search warrant for the defendant's electronic devices, including his laptop computer and the broken USB thumb drives. Subsequent searches of the laptop revealed, among other things: (1) Internet searches in late December 2014 for "borders controlled by Islamic state"; (2) Internet searches in the same period relating to Syrian cities near the Turkish border that were controlled by ISIL at the time of the searches, e.g., "who controls kobani," "kobani border crossing," and "jarablus border crossing"; (3) a chart, downloaded in early January 2015, of crossing points between Turkey and Syria indicating the areas on the Syrian side of the border controlled by ISIL; (4) Internet searches for "Flames of War," a 55-minute ISIL propaganda video; and (5) downloaded videos, including one downloaded in late December 2014 showing ISIL members executing prisoners by lining them up and shooting them in the head.

C. The Defendant's Arrest and Initial Presentment

On January 16, 2015, the day after he was deported to the United States, JTTF agents arrested the defendant in Asbury Park, New Jersey pursuant to a sealed complaint charging him with attempting to provide material support to ISIL, in violation of 18 U.S.C. § 2339B. After the defendant's arrest, agents seized and later obtained warrants to search two backpacks that the defendant had when he was overseas. Agents recovered from the backpacks, among other things: two compasses, a solar-powered flashlight, a solar-powered power source, shards of broken USB thumb drives, a fatigue jacket, and camping clothes.

On January 18, 2015, the defendant was arraigned on the complaint before the Honorable Steven I. Locke. Judge Locke entered a permanent order of detention with leave to

file a later bail application and also ordered that the case be filed under a “John Doe” docket. The defendant has been in custody since his arrest.

II. The John Doe Docket and Limited Unsealing

The reasons for maintaining this case as a “John Doe” docket no longer exist. The government therefore respectfully moves to convert the magistrate docket, 15-MJ-044, to the defendant’s true name, and also moves to unseal the complaint and arrest warrant that were originally filed under seal.

III. The Court Should Continue the Permanent Order of Detention

The government respectfully requests that the Court continue Magistrate Judge Lock’s permanent order of detention, even in the event the defendant now moves for bail, on grounds of dangerousness and risk of flight.

A. Legal Standard

Federal courts are empowered to order a defendant’s detention pending trial upon a determination that the defendant is either a danger to the community or poses a risk of flight. See 18 U.S.C. § 3142(e). A finding of dangerousness must be supported by clear and convincing evidence. See United States v. Ferranti, 66 F.3d 540, 542 (2d Cir. 1995). A finding of risk of flight must be supported by a preponderance of the evidence. See United States v. Jackson, 823 F.2d 4, 5 (2d Cir. 1987). The government is entitled to proceed by proffer. See United States v. LaFontaine, 210 F.3d 125, 130-31 (2d Cir. 2000).

The Bail Reform Act lists the following factors to be considered in the detention analysis: (1) the nature and circumstances of the offenses charged; (2) the weight of the evidence; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant’s release. See 18 U.S.C. § 3142(g). Because the defendant is charged with attempting to provide material support to a foreign terrorist organization, in violation of 18 U.S.C. § 2339B, there is a statutory presumption in favor of detention. See 18 U.S.C. §§ 3142(e)(3)(C); 2332b(g)(5)(B).

B. Analysis

As set forth above, there is a presumption that no condition or combination of conditions will permit the defendant to be released on bond based on the nature of the charges against him. Moreover, the factors referenced above weigh heavily against pre-trial release. The charged offenses are serious, particularly in light of the extremely violent nature of the terrorist group the defendant attempted to join and the group’s international reach. Indeed, in listing the “nature and circumstances of the offense charged” as a criterion in the detention analysis, the Bail Reform Act specifically provides that the Court is to consider, among other factors, whether the crime charged is a federal crime of terrorism. See 18 U.S.C. § 3142(g)(1).

The weight of the evidence is strong. Documents confirm that the defendant purchased an airline ticket to travel from Cairo, Egypt to Istanbul, Turkey in early January 2015, and that he then flew to Turkey on January 10, 2015. Computer forensics indicate that in the months and weeks before his departure, the defendant conducted repeated Internet searches of, among other things, “borders controlled by Islamic state”; downloaded a chart of crossing points between Turkey and Syria indicating which areas of the Syrian border ISIL controlled; and had both searched for and downloaded multiple ISIL propaganda videos. Moreover, the items in the defendant’s backpacks, including two compasses, a solar-powered flashlight, a solar-powered power source, and camping clothes, are consistent with the items one would bring to a remote location lacking electrical infrastructure, such as war-torn Syria.

The defendant’s history and characteristics confirm that he is a danger to the community and presents a substantial risk of flight. The defendant poses a danger to the community because his attempt to join ISIL reflects his embrace of an extremely violent ideology. Were the defendant to be released into the community, there is every reason to expect he might continue his effort to support ISIL by, for example, engaging in acts of terrorism on American soil. With respect to flight risk, while the defendant is a United States citizen, he lived abroad for over a year before his arrest and indeed for the majority of the past five years. Most recently, the defendant lived in Kuwait and Egypt. The defendant also appears to have close ties to a woman in Egypt whom he has identified as his wife. He therefore has strong foreign ties. Furthermore, in social media postings made prior to his arrest, the defendant repeatedly professed a desire never to return to the United States, notwithstanding the fact that he has family, including children, in this country.

IV. Conclusion

For the foregoing reasons, the government respectfully requests that the Court: (1) convert the magistrate docket associated with this case to the defendant’s true name, (2) unseal the complaint and arrest warrant, and (3) continue to detain the defendant pending trial.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: /s/ Tiana A. Demas
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cc: Clerk of Court (by ECF)

SPN/TAD
F.# 2015R00079

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

-against-

LIMITED UNSEALING ORDER

TAIROD NATHAN WEBSTER PUGH,

15-CR-116 (NGG); 15-MJ-044

Defendant.

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Upon the application of LORETTA E. LYNCH, United States Attorney for the Eastern District of New York, by Assistant United States Attorneys Samuel P. Nitze and Tiana A. Demas, for an order unsealing certain documents filed under seal in the above-captioned matter,

WHEREFORE, it is ordered that the complaint and affidavit in support of arrest warrant and the arrest warrant in the above captioned case are hereby unsealed.

Dated: Brooklyn, New York
March 17, 2015

HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK