

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA

VS.

CASE NO: 6:17-cr-18-Orl-40KRS

NOOR ZAHI SALMAN

_____ /

ORDER

This cause comes before the Court on the Government's Motion for an Order Revoking Defendant's Release. (Doc. 15). The Government also seeks the entry of an order staying the Magistrate Judge's order of release to the extent necessary to permit further briefing on this matter and to enable the Court to examine the record of the proceedings before the Magistrate Judge. (*Id.*). Upon due consideration, the Court grants the Government's motion to stay the Magistrate Judge's order of release and establishes a briefing schedule necessary to the expeditious resolution of this issue.

I. BACKGROUND

On January 12, 2017, a grand jury sitting in Orlando, Florida, returned a two-count Indictment charging Defendant Salman with aiding and abetting the attempted provision and provision of material support to a foreign terrorist organization, in violation of Title 18, United States Code, Section 2339A(b)(1) (Count One), and obstruction of justice, in violation of Title 18, United States Code, Section 1512(b)(3) (Count Two). (Doc. 1). Defendant Salman was arrested in the Northern District of California and appeared before Magistrate Judge Donna M. Ryu, sitting in the Oakland Division, on January 17 and 18, 2017. (Doc. 15, p. 2). The detention hearing was held on February 1, 2017, and the parties proceeded by attorney proffer which is the practice in the Northern District of California,

Oakland Division. (*Id.*). Magistrate Judge Ryu ordered a psychological evaluation of the Defendant, and the final detention hearing was held on March 1, 2017. (*Id.*).

At the conclusion of the detention hearing, Magistrate Judge Ryu ordered the Defendant released on certain conditions, including GPS monitoring, home incarceration, and a \$500,000 bond secured by certain residential property. (*Id.* at pp. 2, 4). The Government moved Magistrate Judge Ryu to stay the order granting pretrial release in order to seek review of that order in this Court, as permitted by Title 18, United States Code, Section 3145(a)(1). Magistrate Judge Ryu stayed the order setting conditions of pretrial release to allow the Government to seek review of the order before this Court. (*Id.* at p. 3).

II. Review of Pretrial Release or Detention Order

Title 18, United States Code, Section 3145(a)(1) provides that when a magistrate judge orders the release of a defendant “the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release The motion shall be determined promptly.” This Court has original jurisdiction over the offense; hence, review of the magistrate judge’s order properly resides with this Court.

It is well-settled that the District Court conducts a *de novo* review of the case and exercises independent review of the facts presented by the parties. *United States v. Hurtado*, 779 F.2d 1467, 1480 (11th Cir. 1985). The reviewing court may base its review of the magistrate judge’s order on the parties’ memorandum of law and a transcript or recording of the proceedings. *United States v. Gaviria*, 828 F.2d 667, 670 (11th Cir. 1987). However, the District Court may hold an additional evidentiary hearing if it deems one

necessary to the resolution of the matter under consideration. *United States v. Medina*, 775 F.2d 1398, 1402 (11th Cir. 1985) (per curiam).

III. Discussion

The Court is mindful of its obligation to promptly resolve the Government's Motion, and this must be balanced against the Defendant's right to respond to the Government's motion to revoke the order setting conditions of pretrial release. Accordingly, the Defendant is directed to file with this Court a response to the Government's motion no later than March 8, 2017, 5:00 p.m. Eastern Standard Time. If the Defendant requires additional time to prepare its response, a motion for an extension of time shall be filed no later than noon, Eastern Standard Time, on March 7, 2017. If either the Government or the Defendant seek an additional evidentiary hearing, the requesting party shall articulate the basis for the request, recognizing this Court will independently examine the record presented to Magistrate Judge Ryu. A request for an additional evidentiary hearing must be filed no later than March 7, 2017, 5:00 p.m. Eastern Standard time, and a request for an evidentiary hearing does not relieve the Defendant of the deadline for submitting her response to the Government's motion.

IV. Conclusion

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. The Government's motion to stay Magistrate Judge Ryu's order setting conditions of pretrial release (Doc. 15) is **GRANTED**. Magistrate Judge Ryu's order is **STAYED** pending resolution of the Government's motion by this Court.

2. Defendant Salman shall file her response to the Government's motion no later than March 8, 2017, 5:00 p.m. Eastern Standard Time.
3. Any party requesting an additional evidentiary hearing shall state the basis for the request no later than March 7, 2017, 5:00 p.m. Eastern Standard Time.

DONE AND ORDERED in Orlando, Florida, on March 2, 2017.



PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Magistrate Judge Donna M. Ryu

Counsel of Record
Unrepresented Parties