

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLINT MONROE UTTER,

Defendant.

**Case No.: 1:20-CR-96
(JUDGE KLEEH)**

DETENTION ORDER

On December 23, 2020, came the United States of America by Brandon S. Flower, Assistant United States Attorney, and came Defendant, Clint Monroe Utter, who appeared by videoconference and by his counsel, Richard Walker, for a hearing on the Motion to Detain filed by the Government [ECF No. 8], in accordance with the Bail Reform Act, Title 18, United States Code, Section 3142(f). Defendant appeared by videoconference, and on the record waived his right to appear in person, which his counsel affirmed and to which his counsel agreed. Defendant and his counsel signed a written waiver to this effect. [ECF No. 17]. The parties presented evidence and witness testimony was taken.

A. The Standards

Title 18, United States Code, § 3142(g) provides the specific factors that are to be considered to determine whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community. Those factors are:

1. The nature and consequences of the offense charged, including whether the offense is a crime of violence, a violation of Section 1591, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;
2. The weight of the evidence against the person;
3. The history and characteristics of the person, including but not limited to community ties, employment, criminal history, record of court appearance or whether the person was on probation or parole at the time the current offense was committed; and
4. The seriousness of the danger to any person or the community that would be posed by the person's release.

B. Findings of Fact and Conclusions of Law

On December 15, 2020, Defendant was indicted on one count, namely, Bank Robbery, in violation of Title 18, United States Code, Section 2113(a). [ECF No. 5].

The Government called Special Agent Angela Bronson ("SA Bronson") to testify to events which lead to the Indictment in the instant case. SA Bronson, in a lengthy and detailed recitation of events, in summary, testified that on the morning of November 17, 2020, Defendant followed an employee of Summit Community Bank in Salem, West Virginia into the bank as the employee arrived at work. On so doing, according to the testimony, Defendant robbed the bank at gunpoint, taking the sum of \$69,100.00. In the process, Defendant is alleged to have tied up five employees of the bank during the robbery, and then taking the bank branch manager's vehicle to flee the scene.

SA Bronson further testified that law enforcement recorded two conversations with Defendant in which Defendant indicated a desire and specified plans for carrying out "hits." One such conversation was between Defendant and a Confidential Informant (CI) in which Defendant

requested the CI's assistance in locating a "hitman." The other such conversation involved Defendant, the CI, and an undercover FBI agent posing as a "hitman." The "hits" Defendant contemplated in the course of these conversations ranged from threats to bodily harm to homicide, and included a scheme to threaten or perhaps even harm a state Family Court Judge so as to interfere with Defendant's divorce proceeding. The contemplated "hits" also were alleged to target Defendant's ex-wife, and the boyfriend of his ex-wife. The agent's testimony was that Defendant intended that the monies from the bank robbery were to be used to pay for these "hits." Moreover, according to this testimony, the CI indicated to law enforcement where monies from the bank robbery could be located and recovered at Defendant's home, and law enforcement in fact located these monies in this location.

While deferring a cross-examination of the Government's witness until such time as counsel can conduct a further investigation, counsel for the Defendant proffered that Defendant disputes the testimony and evidence put on by the Government. Defendant's counsel further argued that much of the Government's case turns on cooperating witnesses who did not testify in the proceeding before the Court and whose claims Defendant and his counsel have not yet had an opportunity to investigate. Defendant's counsel also highlighted Defendant's limited criminal history prior to events giving rise to the Indictment here, and pointed out Defendant's lack of a history with drug issues.

The Court has taken into consideration Defendant's limited criminal history and his ties to the community. However, the Court is of the opinion that the severity and scope of Defendant's alleged criminal activity – in the short span of approximately one week as to events giving rise to the Indictment – demonstrates a grave risk to the safety of this community. Defendant's limited

criminal history and ties to the community do not outweigh the Court's concern as to the danger Defendant poses to the community.

For the reasons set forth herein and on the record, the Court finds as follows:

1. Given the seriousness of the allegations set forth on the record, the Government has established, by a preponderance of the evidence, that Defendant is a flight risk.
2. The Government has established, by clear and convincing evidence, including evidence of specific threats toward a judicial officer and others, that Defendant is a danger to the community.
3. No bond conditions could be set to reasonably ensure the appearance of Defendant or the safety of the community.

C. Decision

Based upon the evidence presented and the above findings of fact and conclusions of law, the Government's Motion to Detain [ECF No. 8] is **GRANTED**. Accordingly, it is hereby **ORDERED** that:

1. Defendant is hereby **REMANDED** to the custody of the United States Marshals Service pending further proceedings in this case;
2. Defendant be confined in a facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel;
4. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which Defendant is confined shall

deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding; and

5. Any Party seeking revocation or amendment of this Order shall file a motion pursuant to 18 U.S.C. §3145.

The Clerk of the Court is directed to provide a copy of this Order to all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: December 23, 2020.

A handwritten signature in black ink, appearing to read 'Michael John Alop', written over a horizontal line.

MICHAEL JOHN ALOP
UNITED STATES MAGISTRATE JUDGE