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United States District Court
Eastern District of California

United States of America,
Plaintiff, No.
vs. Detention Order
Hamid Hayat,
Defendant.

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A. Order For Detention

After conducting a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).

B. Statement Of Reasons For The Detention

The Court orders the defendant's detention because it finds:

 x By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.

 x By clear and convincing evidence that no condition or combination of conditions will reasonably assure

1 the safety of any other person and the community.

2 C. Findings Of Fact

3 The Court's findings are based on the evidence which was
4 presented in Court and that which was contained in the Pretrial
5 Services Report, and includes the following:

6 x (1) Nature and Circumstances of the offense
7 charged.

8 x (a) The crime. 18 U.S.C. § 2001--deny
9 attending terrorist training
10 camp in Pakistan.

11 _____ (b) The offense is a crime of violence.

12 _____ (c) The offense involves a narcotic.

13 _____ (d) The offense involves a large amount of
14 controlled substances.

15 X (2) The weight of the evidence against the
16 defendant is high.

17 x (3) The history and characteristics of the
18 defendant including:

19 _____ (a) General Factors:

20 _____ The defendant appears to have a mental
21 condition which may affect whether the
22 defendant will appear.

23 _____ The defendant has no family ties in the
24 area.

25 x The defendant has no steady employment.

26 _____ The defendant has no substantial
financial resources.

_____ The defendant is not a long time resident
of the community.

_____ The defendant does not have any
significant community ties.

x Past conduct of the defendant: attended
al-Qaeda supported training camp and

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reentered country to await instructions to kill Americans.

_____ The defendant has a history relating to drug abuse.

_____ The defendant has a significant prior criminal record.

_____ The defendant has a prior record of failure to appear at court proceedings.

(b) Whether the defendant was on probation, parole, or release by a court;

on: At the time of the current arrest, the defendant was

_____ Probation.

_____ Parole.

_____ Release pending trial, sentence, appeal or completion of sentence.

(c) Other Factors

_____ The defendant is an illegal alien and is subject to deportation.

_____ The defendant is a legal alien and will be subject to deportation if convicted.

X Other: wife is in Pakistan and father just completed building home there.

(4) Rebuttable Presumptions

In determining that the defendant should be detained, the court also relied on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e), which the court finds the defendant has not rebutted:

_____ (a) (1) The crime charged is one described in § 3142(f) (1)

_____ (A) a crime of violence; or

_____ (B) an offense for which the maximum penalty is life imprisonment or

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death; or

_____ (C) a controlled substance violation that has a maximum penalty of ten years or more; or

_____ (D) a felony and defendant previously was convicted of two or more of the offenses described in (A) through (C) above and

(2) Defendant previously has been convicted of one of the crimes listed in subparagraph (1)(A)-(C), above and

(3) The offense referred to in subparagraph (2) was committed while defendant was on release pending trial and

(4) Not more than five years has elapsed since the date of conviction or release from imprisonment for the offense referred to in subparagraph (2).

_____ (b) There is probable cause to believe that defendant committed an offense for which a maximum term of imprisonment of ten years or more is prescribed

_____ in the Controlled Substances Act, 21 U.S.C. §§ 801, et seq.,

_____ the Controlled Substances Act , 21 U.S.C. §§ 951, et seq.,

_____ the Maritime Drug Law Enforcement Act, 46 U.S.C. App. §§ 1901, et seq., or

_____ an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b.

_____ an offense under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423 or 2425.

D. Additional Directives

1 Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs
2 that:

3 The defendant be committed to the custody of the Attorney
4 General for confinement in a corrections facility separate, to the
5 extent practicable, from persons awaiting or serving sentences or
6 being held in custody pending appeal; and

7 The defendant be afforded reasonable opportunity for private
8 consultation with his counsel; and

9 That, on order of a court of the United States, or request of
10 an attorney for the Government, the person in charge of the
11 corrections facility in which the defendant is confined deliver the
12 defendant to a United States Marshal for the purpose of an
13 appearance in connection with a court proceeding.

14 Dated: June 10, 2004.

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/s/ Peter A. Nowinski
Peter A. Nowinski
Magistrate Judge