

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-3009**September Term, 2019****1:19-cr-00348-CKK-1****Filed On: April 10, 2020**

United States of America,

Appellee

v.

Lawrence Gamble,

Appellant

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BEFORE: Griffith, Pillard, and Wilkins, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the memoranda of law and fact filed by the parties. The court has determined that the issues presented occasion no need for an opinion. See D.C. Cir. Rule 36. It is

ORDERED and ADJUDGED that the district court's February 6, 2020, order denying appellant's motion for reconsideration of the December 17, 2019, order denying appellant's motion to vacate the magistrate judge's detention order be vacated and the case remanded for further proceedings consistent with this judgment.

The district court erred in concluding that appellant failed to meet his burden of production to rebut the statutory presumption applicable in this obstruction of justice case that no condition or combination of conditions will reasonably assure the safety of the community. See 18 U.S.C. § 3142(e)(3)(D); United States v. Alatishe, 768 F.2d 364, 371 (D.C. Cir. 1985). Appellant did "offer some credible evidence contrary to the statutory presumption" by presenting letters attesting to his character and stating that he had an offer of employment if released, and by pointing to a police officer's testimony at the detention hearing that he had no involvement in the prostitution business. Id.

While the statutory presumption does not disappear like a "bursting bubble" once a defendant offers some evidence that he is not a danger to the community, the burden of

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persuasion remains with the government to prove by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of the community. United States v. Jessup, 757 F.2d 378, 380-84 (1st Cir. 1985). Here, although the district court analyzed the factors set forth in 18 U.S.C. § 3142(g), and concluded that they weighed in favor of detention, the court did not adequately explain in view of the entire record why it found by clear and convincing evidence that appellant would obstruct justice in the future, how he would do so, or why no condition or combination of conditions will reasonably assure the safety of the community. Cf. United States v. Stone, 608 F.3d 939, 954 (6th Cir. 2010).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/
Daniel Reidy
Deputy Clerk