

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-3229

September Term, 2023

1:23-cr-00073-CKK-14

Filed On: February 12, 2024

United States of America,

Appellee

v.

Trayveon James Johnson, also known as
Treyueon James Johnson, also known as
Treyski,

Appellant

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

BEFORE: Henderson, Millett, and Walker, 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. Upon consideration of the foregoing and appellee's motion for leave to file under seal, it is

ORDERED that the motion for leave to file under seal be granted. The Clerk is directed to file appellee's lodged sealed memorandum of law and fact. It is

FURTHER ORDERED that the district court's pretrial detention order entered on November 21, 2023, be affirmed. The court reviews release and detention orders pursuant to the Bail Reform Act for clear error, which applies to both the "factual predicates underlying the district court's decision" and the district court's "overall assessment" as to the "danger presented by [a] defendant's release." United States v. Hale-Cusanelli, 3 F.4th 449, 454-55 (D.C. Cir. 2021) (quoting United States v. Mattis, 963 F.3d 285, 291 (2d Cir. 2020)). Appellant has not demonstrated that the district court clearly erred by finding that no condition or combination of conditions would reasonably assure the safety of any other person and the community. Id.; 18 U.S.C. § 3142(e)(1).

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Specifically, the district court did not clearly err in its assessment of appellee's proffered evidence when determining that the nature and circumstances of the offense and the weight of the evidence favored detention. 18 U.S.C. § 3142(g)(1)-(2); see United States v. Smith, 79 F.3d 1208, 1209-10 (D.C. Cir. 1996) (per curiam) (holding that the government may "proceed by way of proffer" at a pretrial detention hearing); Hale-Cusanelli, 3 F.4th at 455 (holding that "[w]here there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous" (quoting United States v. Brockenborough, 575 F.3d 726, 741 (D.C. Cir. 2009))). The district court also did not clearly err in its overall determination that appellee had shown by clear and convincing evidence that appellant posed a threat to public safety. See United States v. Munchel, 991 F.3d 1273, 1280, 1282-83 (D.C. Cir. 2021); 18 U.S.C. § 3142(g)(1)-(4). Because the district court's order may be affirmed based on this dangerousness determination, the court does not address appellant's argument that the district court erred by sua sponte determining that appellant was a flight risk. See Hale-Cusanelli, 3 F.4th at 457 (affirming a detention order based only on a dangerousness determination).

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/

Scott H. Atchue
Deputy Clerk