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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. MARIO DIAZ, et al., Defendants.	Case No. CR-S-07-0248 WBS UNITED STATES' EX PARTE APPLICATION FOR STAY OF MAGISTRATE COURT'S PRETRIAL RELEASE ORDER OF DEFENDANT ERNEST PAUL KILLINGER PENDING APPEAL TO THE DISTRICT COURT AND ORDER GRANTING STAY

The United States of America, by and through its counsel Assistant United States Attorney Jason Hitt, respectfully files this ex parte application with The Honorable Dale A. Drozd for a stay of the Court's pretrial release order of defendant Ernest Paul KILLINGER pending the government's appeal to the district court.

BACKGROUND

The defendant's custody status was initially determined by Magistrate Judge Mueller on June 27, 2007. During the defendant's initial appearance on the criminal complaint, the government moved for detention on the basis of flight risk and danger. The defendant submitted the issue. Magistrate Judge Mueller ordered the defendant

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detained on both grounds and issued a detention order for the defendant.

APRIL 17, 2008 DETENTION HEARING

On April 9, 2008, the defendant filed a motion for bail review. The government filed a brief opposing the defendant's release on April 17, 2008. This Court held a detention hearing on the defendant's motion on April 17, 2008.

During the April 17, 2008 hearing, the Court held that a $450,000 bond secured by the defendant's step-father's property and the defendant's father's business equipment was sufficient to overcome flight risk but insufficient to overcome danger to the community. However, the Court ultimately ruled that a $450,000 secured bond subject to forfeiture under the terms of United States v. Vaccarro, 51 F.3d 189 (9th Cir. 1995) was sufficient to assure the safety of the community.

The Court further held that its release order for the defendant would not be issued until he filed the appropriate bond paperwork and a signed declaration by his mother, Mrs. Glines, acknowledging her understanding of the Vaccarro bond proposed in this case. Those conditions have not yet been met.

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Finally, the Court held that an ex parte application by the government for a stay pending review to the district court in this particular case would be granted. Accordingly, pursuant to the Court's ruling, the government hereby submits this application and proposed order staying the Court's April 17, 2008 ruling releasing the defendant Ernest Paul KILLINGER.

Respectfully Submitted,

McGREGOR W. SCOTT
United States Attorney

DATED: May 8, 2008

By: /s/Jason Hitt
JASON HITT
Assistant U.S. Attorney

O R D E R

Based upon the government's application, **IT IS HEREBY ORDERED** that this Court's ruling of April 17, 2008, ordering defendant Ernest Paul KILLINGER released on a $450,000 secured bond subject to forfeiture pursuant to the terms of United States v. Vaccarro, 51 F.3d 189 (9th Cir. 1995), is **STAYED** pending final disposition of the government's motion to revoke this Court's release order before the district court.

IT IS SO ORDERED.

DATED: May 8, 2008.

DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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