

EXHIBIT B

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA) 20mj5086
)
vs.
) Buffalo, New York
JOSEPH BELLA,) April 27, 2020
) 11:15 a.m.
Defendant.)
- - - - - X

DETENTION HEARING
Transcribed from an audio recording device

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MICHAEL J. ROEMER
UNITED STATES MAGISTRATE JUDGE

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P R O C E E D I N G S

* * *

THE CLERK: The United States District Court for the Western District of New York is now in session. The Honorable Michael J. Roemer presiding. In the matter of the United States versus Joseph Bella, case No. 20MJ5086 for a detention hearing.

Counsel, please state your name for the record.

MR. TRIPI: Joseph Tripi and Brendan Cullinane for the United States. Good morning, your Honor.

MR. EOANNOU: Good morning, Judge. Tom Eoannou for Joseph Bella.

MAGISTRATE JUDGE ROEMER: Good morning. Counsel, we're here for a detention hearing. Are we ready to go, Mr. Tripi?

MR. TRIPI: Yes.

MAGISTRATE JUDGE ROEMER: Mr. Eoannou, are you ready?

MR. EOANNOU: Yes.

THE CLERK: Mr. Eoannou, could you just turn your microphone towards you? Thank you so much.

MAGISTRATE JUDGE ROEMER: Mr. Tripi.

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2 MR. TRIPI: Yes, your Honor. Preliminarily, we
3 premarked 22 exhibits. We'll be proffering those exhibits
4 during the course of the hearing. They are all embedded in
5 various ways in a PowerPoint that I'm going to present. So the
6 PowerPoint CD is Exhibit 1, and the rest of the exhibits are on
7 the list, Exhibits 2 through 22. Additionally, this morning we
8 obtained some additional video footage we're getting burned to
9 a disc, so we might, as this hearing progresses, have an
10 Exhibit 23.

11 MAGISTRATE JUDGE ROEMER: Mr. Eoannou has received
12 a copy of all of the exhibits?

13 MR. TRIPI: He has got the underlying exhibits,
14 yes, he has a copy.

15 MAGISTRATE JUDGE ROEMER: Have you had a chance to
16 look at this PowerPoint?

17 MR. EOANNOU: No. I gather, and in speaking with
18 Mr. Tripi, that it's exactly what you sent me.

19 MR. TRIPI: Yeah. It's those exhibits embedded
20 into my proffer, which, obviously, I'm going to be proffering
21 certain things.

22 MAGISTRATE JUDGE ROEMER: Okay. All right.

23 MR. TRIPI: Judge, before we start with that.
24 This is a presumption case. It's a presumption that the
25 defendant is both a flight risk and a danger to the community.

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2 Counts 1 through 3 of the complaint trigger that statutory
3 presumption under 18 U.S. Code 3142(e)(3)(A) and (B). We
4 proffer the allegations of the Criminal Complaint that this
5 Court signed as well as the pretrial services report which
6 concludes on the last page of the Pretrial Services Report
7 authored by Brian Mamizuka. Their recommendation is that,
8 based on the nature and circumstances of the offense and the
9 information outlined herein, the Pretrial Service Office finds
10 there is no condition or combination of conditions to assure
11 the defendant's appearance in court or the safety of the
12 community, therefore, it is respectfully recommended that the
13 defendant be detained in these proceedings.

14 Your Honor, pursuant to 18 U.S. Code 3142(g), this
15 Court must consider, (1) the nature and circumstances of the
16 offense, including whether the charged offense is a crime of
17 violence, involves a controlled substance or a firearm, the
18 weight of the evidence, the history and characteristics of the
19 person, including character, past conduct, history or relating
20 to drug or alcohol abuse, criminal history and record
21 concerning appearance at court proceedings, and the nature and
22 seriousness of danger to any person or the community that would
23 be posed by the defendant's release. We submit that, as you'll
24 see at the conclusion of this hearing, all of those factors
25 weigh in favor of the detention of this defendant and the

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2 finding that he is both a flight risk based on the charges and
3 the potential charges and a danger to the community. You'll
4 see through the Pretrial Services Report he has a history of
5 warrants and arrests in New York and Florida. Judge, the
6 investigation in this case involves Homeland Security, the FBI
7 and the U.S. Attorney's Office. It's an active organized crime
8 investigation. The investigation reveals that organized crime
9 members and associates, which include Mr. Bella, are involved
10 in drug trafficking and various wire fraud schemes. The
11 overall investigation has led to an indictment of a DEA agent
12 named Joseph Bongiovanni, who was receiving protection bribes
13 and shielding members and associates of a drug trafficking
14 organized crime group in Buffalo, New York.

15 This defendant's arrest history, as you can see
16 from the Pretrial Services Report, involves communication of a
17 threat, assault, battery to a police officer, driving under the
18 influence, marijuana possession, cocaine possession felony,
19 tampering with evidence felony, arrests include Florida and in
20 New York. Now, the Pretrial Services Report, he has indicated
21 residences in Florida and in Buffalo, but he does have an IMDB
22 profile online, which is available as
23 www.IMBD.com/name/MM10841264 where he indicates in his bio that
24 he also has resided in San Francisco and New York City. I
25 don't believe he has indicated those residences to Pretrial

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2 Services.

3 MAGISTRATE JUDGE ROEMER: I'm not the most
4 technological person. I don't know what an IMDB profile is.

5 MR. TRIPI: Actors and aspiring actors, there is a
6 website where you can see what films they have been in. He has
7 a profile on one of those web pages.

8 MAGISTRATE JUDGE ROEMER: An actor website?

9 MR. TRIPI: Yes. To put it short, that is a
10 better way to put it.

11 MAGISTRATE JUDGE ROEMER: All right.

12 MR. TRIPI: Slide one of one is up on the screen.
13 If we can go to slide two.

14 So, Judge, this defendant has been involved in a
15 variety of fraud schemes throughout his adult life, drug
16 trafficking, violent conduct and threats, as you're going to
17 see. What you're looking at on the monitor here is a photo of
18 Mr. Bella when he was younger and New York State DMV photo
19 under the name Joseph Phillips. The significance of this is
20 that it shows he has created a false DMV identity. This is not
21 an alias where he simply gives someone a wrong name along the
22 way. He actually took steps to create this identity and,
23 obviously, this photo shows he was younger in life than in this
24 point in time. But I submit, this is going to set the stage
25 for the rest of what you're going to hear in this proffer and

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2 this took active fraudulent behavior. Had it been detected at
3 the time in the matters that are required to occur or caused to
4 be caused to occur in the DMV, this would have been mail fraud.
5 We only recently uncovered this alias.

6 If we can go to Exhibit 3 on the PowerPoint. Now,
7 as you'll hear, the defendant has arrests in Florida and in
8 Lake County, Florida. When you get arrested, a fingerprint is
9 done and they have associated in Lake County, Joseph Bella,
10 this defendant's date of birth, Joseph Charlie Bella with that
11 fake New York State identity, Joseph Phillips. This happens to
12 be a warrant that he got for a probation violation in Florida,
13 June 1st, 2012. This demonstrates that alias and active
14 employment of that alias by Mr. Bella. Doesn't show he gave
15 that name during that encounter, but it shows that their
16 fingerprint checks establish that he has a fraudulent identity
17 or alias.

18 Next slide, please.

19 This is consistent with a source of information
20 that was provided for information to Homeland Security. As you
21 can see from this slide, the source of information indicated
22 that Bella has previously utilized this fraudulent identity.
23 This was the first we learned about it. And then we went back
24 and tracked down, in fact, the Florida documentation just
25 recently under the name of Joe Phillips and provides the

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2 identifiers associated with Joseph Phillips. And the agents
3 did a check and found that DMV identification photo, which I
4 showed you, which was the first substantive slide, slide No. 2.
5 Source indicates that Bella has used that identity and is
6 involved in various fraud scams, including use of a false
7 social security number associated with the Phillips identity.
8 Next slide please. So then we have New York State run some
9 checks for that alias, that identity. And what you see here,
10 that arrow from the left, they learned there was a 2003 Order
11 of Protection in New Jersey using the name Joseph Phillips,
12 with an Order of Protection in the Gouverneur Police
13 Department. We haven't tracked down that documentation yet.
14 We also see that it points out of the fraudulent identity,
15 through us asking them to run this identity and then they find
16 that Mr. Bella has used four different social security numbers.
17 That is the box on the far right with the arrow to the four
18 different social security numbers. I redacted out some of the
19 numbers, but just to show you, there are four different
20 numbers. You can see that, Judge, at the bottom middle of the
21 screen. So two identities, four social security numbers; you
22 only get one of each.

23 Next slide, please. Now, this wasn't in the
24 Pretrial Services Report, but you see he has a 26-year criminal
25 history, at a minimum, actually if you go all the way back to

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2 1990, at 17, it's a 30 year history. Age 17, he has an assault
3 arrest in Amherst, New York reduced to an attempted criminal
4 mischief. That is in regard to he is a dangerous individual.
5 He is violent. November 11th, 1994, now age 24, he is down in
6 Clearwater, Florida. He is arrested for aggravated battery of
7 a police officer and resisting arrest. He is convicted of
8 battery, so not aggravated battery, but of battery of a police
9 officer and resisting arrest. One year later, roughly December
10 1st, 1995, now he is age 22. He is arrested for driving under
11 the influence, causing property damage and possession of
12 cannabis, convicted of the cannabis portion of it. People
13 always gloss over the danger that is inherent with driving
14 under the influence, though I would argue that is another
15 indicator of dangerousness, particularly where the charge
16 involved property damage associated with driving under the
17 influence. But he doesn't learn and we'll get into more
18 criminal contacts along the way, and a number of criminal
19 contacts that didn't involve any arrests.

20 Next slide, please.

21 When we look from there, in 2002, Mr. Bella is
22 involved in a dirty box scam. So, coming out of 9/11, this
23 office, the U.S. Attorney's Office for the Western District of
24 New York, prosecuted six people in Lackawanna, known as the
25 "Lackawanna Six." Mr. Bella, when everyone else is concerned

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2 about the safety of this country and their loved ones and is
3 rallying again for the buildings that fell in a pile of rubble,
4 Mr. Bella sees opportunity. Opportunity to prey on victims and
5 scam them. And that is what he did in 2002. He was ordered by
6 the Office of the Attorney General of New York State to cease
7 and desist his business practices under those provisions of
8 General Business Law Section 349 and 399-b. The order was
9 based on findings that Bella and associates utilized a
10 telemarketing scheme to fraud people into buying potassium
11 iodine pills for protection against the, "dirty bomb," at a
12 price that was three times the price at which the pills were
13 otherwise available. Bella and his associates claimed that Al
14 Qaeda terrorists were getting ready to release a, quote, "dirty
15 bomb" in Western New York. The story was picked up by the New
16 York Times and is available at
17 [www.nytimes.com/2002/12/04/us/threats-and-reasponse-inquiry-New](http://www.nytimes.com/2002/12/04/us/threats-and-reasponse-inquiry-New-York-says-pill-seller-invoked-terror-case.html)
18 [-York-says-pill-seller-invoked-terror-case.html](http://www.nytimes.com/2002/12/04/us/threats-and-reasponse-inquiry-New-York-says-pill-seller-invoked-terror-case.html).

19 There was an article picked up by the New York
20 Post, there is a citation there, I won't read it. One is
21 enough for this point.

22 Next slide, please. These are some excerpts from
23 the 2002 New York Times article. And you can see: New York
24 State has shut down Mr. Bella's business. The authorities said
25 the business used fears of terrorism as a telemarketing tool.

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2 State said the business tried to sell anti-radiation pills
3 after six men from the area were arrested for supporting Al
4 Qaeda. The business, Radi-Aid, Inc, which called itself the
5 "anti-terrorism unit" of the Laboratories of BioFend, randomly
6 called hundreds of Western New York residents on October 18th
7 with a recorded message saying, quote, "more terrorists were on
8 the prowl and they intended to detonate dirty bombs in the
9 area." The State Attorney General's Office said. "The message
10 then offered \$29.95, quote, "crisis kits" containing 15
11 potassium iodide pills, which can block the thyroid gland's
12 absorption of radioactive iodine. State officials said the
13 same number of pills could be bought over the counter for
14 \$9.95."

15 Couple things to note is that the error that this
16 slide points out, BioFend, and you'll see as the slide points
17 out, was a company that Mr. Bella was ordered to cease and
18 desist on occurrence. His response was that he still owned the
19 domain name. He buys the domain name for BioFend.com, which is
20 active until this November of 2020, it's paid up.
21 Additionally, when I get to the COVID-19 fraud portion of my
22 proffer, which is coming up, you'll see, it's very much the
23 same approach that he did regarding the 9/11 thing, this 2002
24 scam, trying to scam to make increased profits.

25 Next slide, please.

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2 This is also from the article, Judge. You can see
3 the pitch was made five weeks after an FBI investigation led to
4 the arrest of six men in nearby Lackawanna on federal charges
5 of providing material support for terrorism by attending the
6 Al-Queda training camp visited by Osama Bin Ladin. And that
7 goes onto talk about BioFend. And at the bottom it says, "The
8 message's ominous tone pushed the case ahead of scores of
9 telemarketing complaints" that the attorney general's office
10 received.

11 Next slide, please.

12 As set forth in the New York Time's article, and
13 as I referenced already, Mr. Bella consented to an order that
14 he dissolve Radi-Aid, Inc, cease doing business as the
15 Laboratories of BioFed, and pay a \$2,500 civil penalty for use
16 of deceiving business practices.

17 Our subpoena response is from the domain provided
18 here, and that indicates that Mr. Bella, with his address at
19 224 Summer Street, is the responsible party who has renewed
20 that domain valid from December 21st of 2019 to November 19,
21 2020. So, he is either continuing to use BioFend as a
22 business, perhaps some type of shell or front business for some
23 other type of criminality or he is keeping that domain name for
24 a rainy day when he is going to use it again.

25 Next slide, please.

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2 Getting back to his arrest history, and this
3 timeline fits. So coming out of that scam on the 2002 "dirty
4 bomb," he goes to Florida, perhaps laying low from the bad
5 publicity here in New York. Now, remember, we also have a 2003
6 Order of Protection linked to his alias in New Jersey.
7 4/18/2004, now he is age 31, Tampa, Florida, he has an expired
8 driver's license, more than four months. This is a
9 misdemeanor. But if you look at the name, it is Joseph
10 Phillips. This is the conviction that shows up on the
11 misdemeanor, that conviction for the expired driver's license.
12 What that also tells you, we found the court information, and
13 the Pretrial Services Report, and this is not their fault, we
14 acquired a lot of this information recently, doesn't tell you
15 that the name Joseph Phillips was used. This is how the Joseph
16 Phillips's information gets linked to him in Florida during
17 this arrest. And it's also consistent with the timeline that,
18 after Bella has New York Times and New York Post articles,
19 there is a New Jersey hit of this Joseph Phillips identity, and
20 then down in Florida, where he is using this alias again. Not
21 only is he involved in fraud scams, he is fraudulent about who
22 he even is.

23 Next slide, please.

24 Fast forward a little bit to August 19, 2009. Now
25 we're age 36. He is in Travares, Florida. He gets convicted

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2 of evidence tampering and possession of cocaine. Copped a no
3 contest plea, which is a felony conviction in the state of
4 Florida. These are both felonies and he was sentenced,
5 essentially, to Probation. Now, the light treatment that he
6 got in this case might be a reason why when the federal agents
7 were in his house, he said, "Oh, don't worry," words to the
8 effect, "I'll go to court and I'll get probation and go to
9 rehab. That" shows you the level of arrogance of the person
10 you are dealing with, which you can consider when you're
11 determining his character and whether he is going to listen to
12 Court directives moving forward.

13 Next slide, please.

14 Moving on though from that slap on the wrist in
15 Florida for two felony convictions, Mr. Bella is undeterred.
16 In October of 2013, he is back in New York State and he is
17 banged again by the attorney general for engaging in debt
18 collection or assisting others in the industry. He has
19 subsequently violated the cease and desist order and was sued
20 in Federal Court by the FTC and Office of the Attorney General.
21 I've linked to two press releases in there where those are
22 available, your Honor. I've also excerpted them in the slides
23 that are forthcoming.

24 Next slide, please.

25 So this is a 2013 press release from the New York

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2 Attorney General. As you can see, Joseph Bella, the operator
3 of several debt collection companies in the Buffalo area, he
4 reached a settlement with the AG's office for illegally
5 collecting unpaid loans violating the privacy of consumers by
6 soliciting their personal information through employers and
7 sending letters that purport to be from an attorney in order to
8 collect. So Bella would pay \$165,000 in restitution and
9 penalties and be ordered to substantially change his business
10 practices. As you'll see, he didn't change at all. He just
11 changed up the names of his businesses. But down at the bottom
12 of the press release, the Attorney General's office also stated
13 that, "Since November of 2008," so a period of at least five
14 years by that point, he had been operating various debt
15 collection companies in the Buffalo area, including Check
16 Systems LLC, Interchex Systems, Goldberg Maxwell, LLC, Mullins
17 & Kane, LLC, Morgan Jackson, LLC and National Check Registry.
18 And as you'll see moving forward, that is part of the debt
19 collection, elicited debt collection MO. They open and close
20 really short, collect money, shut down, open new accounts under
21 new banks and hoping law enforcement doesn't catch up with
22 them. It's a very difficult scheme to catch up with given the
23 nature of the banking industry and when things become
24 available.

25 Now, what I've set an arrow down at the bottom

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2 arrow to Checks Systems, LLC, what we learned, Judge, in 2016
3 in Jarad, Mr. Bella's phone was seized pursuant to the CBP
4 border search authority and downloaded. And you're going to
5 see an actual script that Mr. Bella had on his phone for the
6 collectors. See, they give their debt collectors their phony
7 identities to say on the phone real information from victims
8 and a script to get them to pay on debt that they don't owe or
9 that they've already paid on. And as you see, this is
10 racketeering. This is organized groups are involved in. Mr.
11 Bella has been at the heart of this area for over a decade.

12 Next slide.

13 Continuing with the 2013 elicited debt collection
14 scheme. This indicates that Bella operated these companies on
15 a very short basis, usually less than six months. He would
16 shut the companies down and then begin operations under another
17 name, hurting a lot of victims in the interim.

18 Next slide, please.

19 This is an example of a debt collector's script
20 that we found in Mr. Bella's phone. Now, this one doesn't have
21 the threats in it, as you can see, Judge, but at the very
22 bottom, I set an arrow to it, Judge, to the disclaimer. Now,
23 that is a disclaimer to the debt collector who would be in Mr.
24 Bella's company.

25 And it says if the debtor does not want to pay, is

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2 disputing, wants a letter, is hanging up on you, rushes you off

3 the phone or will not return your call, you are to cease and

4 desist immediately. Debtors that are upset are the ones that

5 are complaining. As I said, in the box to the right of that

6 that indicates a complete awareness that their debt collection

7 practices are unlawful and those victim debtors may be the ones

8 that complain to the FTC. And, also, this is in the 2016,

9 supposedly years later, after he was supposed to be done, after

10 the cease and desist order, but you see he didn't do that.

11 Next slide. So in our investigation, this is essentially a

12 description of the elicited telemarketing and debt collection

13 schemes that are associated with organized crime groups from

14 someone who has gained expertise in these groups as part of our

15 investigative team. This is excerpted from sworn testimony at

16 the grand jury. The basic blueprint of an elicited debt

17 collection operation is white collar crime. So, basically,

18 someone establishes a business. They have a legitimate LLC and

19 they set up with several employees. And continues on. So

20 let's say you have a call center with employees, the person

21 that owns or manages this call office advises their employees,

22 they offer a debt portfolio, gets people's information: Names,

23 social security number, telephone numbers. The debt portfolio

24 is a collection of information. Let's say if I apply for a pay

25 Payday loan, my name would be on that debt portfolio that I owe

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2 debt. At some point, the Payday loan company sells off that
3 debt and goes to, we'll call, person A. Person exploits this
4 by either copying it or distributing it, I will call it the
5 black market. So that is how people like Mr. Bella obtain
6 these debt portfolios to collect on them, the black market.
7 Sometimes they can do it legitimately. It's usually a mix of
8 legitimate and black market debt in order to hide the activity.
9 So people that have already satisfied the debt or may or may
10 not owe money now, their information is in an illicit community,
11 an illicit network where these businesses have their
12 information.

13 So, going back to the call center, you have your
14 debt portfolio, the call center employee will pick up the
15 telephone, they'll call it's spoofing a telephone number. They
16 use a fake number. They call these people repeatedly saying
17 they work for a company, which is fake. They either claim to
18 be law enforcement or an attorney, which Mr. Bella did. They
19 have access to a database that has all of these victims'
20 personal information. They threaten them and say, hey, I know
21 your wife works here, we're going to serve papers on your
22 wife's place of business. You owe us \$800. If you pay us
23 right now, we'll settle for \$600. So, at that point, someone
24 over the phone has actually convinced the victim to pay money
25 they don't actually owe. So that is the wire fraud. So that

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2 person, actually that's the credit card and gives it to the
3 person on that elicited call center and now you have credit card
4 payment and how do you turn it into real money, that goes to
5 the set of the conspiracy which is beyond the point of my
6 proffer here. But this agent stated, from his experience,
7 people in the upper tier, I would say, the associates or
8 members of the Italian mafia, will typically appoint someone to
9 operate these organizations on their behalf, but they are still
10 manipulating, making decisions and they are drawing money from
11 elicited -- from that activity. Mr. Bella has those types of
12 crime associates, as I'll proffer moving forward.

13 Next slide, please.

14 This gets back to the 2013 cease and desist order.
15 While Mr. Bella did not cease and desist, he just changed up
16 the business names in order to keep defrauding people who did
17 not owe legitimate debt. This is an FTC press release, and it
18 indicates, "After request of the Federal Trade Commission and
19 the New York Attorney General's Office, a U.S. district court
20 halted a Buffalo, New York-based debt collection operation,
21 froze the operation's assets, and appointed a temporary
22 receiver to take over the defendant's business pending trial."
23 And, "In a joint complaint, the FTC and New York Attorney
24 General charged the operation with using lies and threats
25 against consumers in violation of federal and state law. The

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2 defendant misrepresented the consumers had committed check
3 fraud or another criminal act, falsely threatened to arrest or
4 imprison consumers, sue them, garnish their wages, or put a
5 lien on their property;" et cetera. It indicated Mr. Bella had
6 been operating the scheme since February of 2010 and the
7 defendant's and the others had collected 8.7 million dollars in
8 payments during that time according to that complaint. Down at
9 the bottom, you can see in the highlighted portion the agency
10 charged three individuals, Mr. Bella, his mother and a business
11 partner named Luis Shaw in nine related companies they were
12 controlled going by various names, National Check Registry,
13 eCapital Services, LLC, doing so in order to evade detection
14 and continue illegal behavior even after signing an agreement
15 with the New York State authorities in October of 2013 after it
16 prevented them from violating federal and state debt collection
17 laws. So, he ignored the settlement with New York after paying
18 \$165,000 and continued to do it, did it under different
19 business names.

20 Next slide, please.

21 So I've said a couple of times, he is associated
22 with a Italian organized crime, debt collectors and drug
23 traffickers. Law enforcement has a July 2016 version of Mr.
24 Bella's phone that was seized and downloaded. In there are
25 numerous videos and photos of Mr. Bella with a convicted felon,

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2 a known member of the Buffalo mafia long-time member. And
3 these would be photos and videos prior to 2016 leading up to
4 2016. He even had -- and I screen shotted his phone of a 2008
5 ceramics class that the mafia member took while in federal
6 prison in Minnesota. That person I'm referring to is Frank
7 "Butchie" BiFulco.

8 Mr. Bella has a number of people who had
9 historical involvement in telemarketing and debt collection
10 scams, including Peter Gerace as a contact in his phone. Mr.
11 Gerace has a telemarketing conviction emanating out of the U.S.
12 Attorney's Office in 2005. Mr. Gerace is also a relative of
13 the reputed head of the Buffalo mafia family. So another
14 person in Mr. Bella's phone who was engaging in that type of
15 fraud-related activity and has a federal conviction of it.
16 There is also a number of drug trafficking and
17 racketeering-type predicates that the people in Mr. Bella's
18 phone were involved in. His phone by our count had at least 45
19 individuals who law enforcement determines to be members or
20 associates with organized crime groups, drug traffickers or
21 debt collection in Bella's phone. It also depicts Bella in a
22 photo with a law enforcement individual, who our investigation
23 showed was involved in cocaine possession and distribution and
24 is a currently, as yet, uncharged member of law enforcement.
25 Mr. Bella has a number of law enforcement contacts that are

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2 under scrutiny rising from various state agencies, as well as
3 the federal agent, Mr. Bongiovanni, who we've indicated.

4 Next slide, please. Now, I'm going to talk about
5 his history with violence and threats of violence and I'm going
6 to go in reverse chronological order, Judge. This October 7th,
7 2019 complaint is currently pending. This provides another
8 basis to apply the presumption because Mr. Bella is pending
9 trial on a charged case out of Orchard Park where he
10 communicated threats. It's charged state side as aggravated
11 harassment in the second degree. And in the complaint, this is
12 Orchard Park complaint 19-931158, states that on October 7th,
13 2019 at 5 a.m., the victim posted on Facebook that the offender
14 was a cokehead. Now, really, that is not nice of the victim to
15 do. But after posting that, the defendant, Mr. Bella, has
16 continued to call and text the victim while he was at work.
17 The offender threatened to break the victim's jaw. And this is
18 the important part. The victim told the offender he was going
19 to have him arrested for the threat. And the offender texted,
20 go ahead, once he is released he will do it again. So he
21 didn't care that there was going to be law enforcement
22 involvement. Once he is released, he'll do it again. The
23 victim does want to file charges. And as noted in the Pretrial
24 Services Report, this case is pending in court.

25 Next slide, please.

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2 Now, this one is uncharged at this time, but this
3 is a threat from November 17, 2018, which as you'll see
4 continued into December of, I believe, 2019 or 2018. I'm
5 sorry. On this one, the complainant reported that the Mr.
6 Bella Facebook messaged her on Christmas Eve and threatened to
7 harm her and her boyfriend causing the annoyance and alarm that
8 is the elementary language from the aggravated harassment
9 statute. And also texted her on November 17, 2018, just after
10 4 in the morning making threats against the complainant, called
11 her phone number, again threatening to harm the complainant,
12 causing annoyance and harm. And although we just learned about
13 this in preparation for our hearing, but the threat over
14 Facebook is also a violation of federal law that we will be
15 investigating a little further. That is 18 U.S. Code section
16 875, interstate threats (c) C whoever transmits through
17 interstate or foreign commerce any communication containing any
18 threat to injure the person of another shall be fined not more
19 than five years -- imprisonment for not more than five years.
20 So this is an uncharged federal violation. Facebook servers
21 are outside of the State of New York, and so that threat
22 traveled outside of interstate commerce. And as long as that
23 is a true threat, that is chargeable federal conduct. We ask
24 you to consider that in this as well.

25 Next slide, please.

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2 So, now you go this is was a video that Mr. Bella
3 shot from his own phone. If you have any idea, he can't get a
4 ticket in the City of Buffalo without threatening the person
5 that writes him a ticket. This video is from Mr. Bella's own
6 phone, self videotaped his interaction with the City of Buffalo
7 employee. And you'll see, it's a City of Buffalo truck and
8 you'll see it's a parking guy.

9 Please play the slide.

10 (Whereupon, the video is played.)

11 "You too, buddy. We'll see you soon. You have my
12 word." That is say threat.

13 MAGISTRATE JUDGE ROEMER: I guess, was he getting
14 a parking ticket?

15 MR. TRIPI: The video speaks for itself. He is
16 getting a parking ticket. He is upset about it and he is
17 yelling at the guy.

18 MAGISTRATE JUDGE ROEMER: Okay.

19 MR. TRIPI: So, Judge, this one needs a little bit
20 of difference. This is an assault that ultimately gets
21 dismissed in Buffalo City Court. But I have to go back. The
22 back story of this assault is that on or about July 4th, 2015,
23 this assault victim, whose name is Todd Dugas, who is available
24 to testify. He is here today if we need him to testify. Todd
25 Dugas had Mr. Bella's ex-girlfriend on Mr. Dugas' boat over the

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2 4th of July holiday. Mr. Bella became aware of that his

3 ex-girlfriend was on Mr. Dugas' boat. In the weeks that

4 followed, Mr. Bella then started selling messages on via phone

5 and Facebook to a third party that was a friend of this victim.

6 He was telling the third party to deliver this person to Mr.

7 Bella. Apparently Mr. Bella wanted to fight the victim. And

8 couple weeks went by, about three. On July 24th, this victim

9 went with that third party, who was sort of the go between to a

10 bar on Allen Street. And in speaking with the victim, at the

11 time, the victim didn't know that that bar on Allen Street was

12 associated with Mr. Bella's best friend, also a person who had

13 been charged in a federal conspiracy regarding marijuana and

14 pled guilty to a misdemeanor, but it was a substantial

15 marijuana conspiracy. That person owns the bar. They go into

16 that bar and Mr. Bella talks to the victim as though he is

17 being sort of calm, didn't seem threatening, at this point asks

18 to speak outside. They go outside, cross the street and then

19 Mr. Bella starts threatening the victim. He says, "If I ever

20 see my ex on your boat again, I'll kill you." The victim

21 responded by telling him that it wasn't he who invited his ex

22 on his boat. As the victim goes to sort of walk away, Mr.

23 Bella punches him, gets him to the ground and starts hitting

24 him. Victim gets up and tries to defend himself and Mr. Bella

25 slams him to the ground and you see the injuries to the face.

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2 The victim then runs across the street to another bar. And the
3 bars in that area, the bar owners also know each other. So now
4 this victim is outnumbered by Mr. Bella and bar staff. He
5 tries to get into that other bar. And, according to the
6 victim, he is a little disoriented from his injuries, there is
7 a female who won't let him into this bar across the street. He
8 shoves her in anger and frustration and runs down the street,
9 and Mr. Bella catches up with him and beats him some more. So
10 the victim goes to ECMC. And by the time the victim gets out
11 in the morning, he comes and tries to immediately file police
12 reports, he comes to understand that Mr. Bella has already
13 filed a police report.

14 Now, going back to Mr. Bella's phone. Mr. Bella's
15 allegation was that the victim took a wild punch. He had a
16 witness back up his story. But, as I said, the circumstances
17 were that everyone would have been against Mr. Dugas. The
18 story was Mr. Dugas took a wild swing, face planted and kicked
19 Mr. Bella in the shin. Well, the victim has a far different
20 story. Eventually, Buffalo Police gets it right, they charge
21 Mr. Bella. And along the way, the case gets adjourned in
22 Buffalo City Court, for reasons I'm unsure of at this point of
23 time, a number of times. Victim indicates to me he leaves town
24 after indicating to the DA's office he had work for two months.
25 The employer, the victim's understanding, is that the defense

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2 lawyer for Mr. Bella obtains Facebook photos of the victim out
3 in California, and then uses that to, ultimately, argue to the
4 state court judge that the case should be dismissed. And over
5 the victim's objections that he says he made to the DA's
6 office, it gets dismissed. Victim is very unsatisfied with the
7 way the Buffalo Police handled it and very unsatisfied with how
8 the court handled it. It was not dismissed on any of the
9 merits. Now, the screen capture on the left is what the victim
10 verified to me this morning that he posted to Facebook. Our
11 obtaining of this, though, was from Mr. Bella's phone. He
12 screen shot it. So that is where we get the Facebook
13 posting. Mr. Dugas posts, "Joe Bella is a scumbag and only
14 knows how to threat and intimidate people through shady
15 collections and practices to make money. He was fined \$160,000
16 by the State of New York two years ago" -- which is accurate --
17 but it wasn't shut down. Now, the federal government finally
18 shut him down and liquidating his 8 million dollar company and
19 fined him millions or it was jail. Hope this opens everyone's
20 eyes to exactly the type of person this scumbag is. See you in
21 court Joe! I am going to sue the shit out of you."

22 Now, on the right, in the showing this video to
23 Mr. Dugas, this was also on Mr. Bella's phone and came to be --
24 Judge, Mr. Dugas doesn't remember if he filmed this. He
25 doesn't think he did. What he thinks is on the right is a

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2 friend of Mr. Bella and they are filming like a mocking of the
3 victim pretending to be the victim filming a mocking thing and
4 the victim has a garden and has tomatoes and stuff like that,
5 so the victim believes this is a mocking video that was
6 doctored up of him. But the picture on the left of your
7 screen, Judge, is the victim. He, quite honestly, he couldn't
8 remember if it was a video he filmed that was edited over. He
9 is a little unclear of that after the passage of time, but the
10 video is on Mr. Bella's phone.

11 And if you could play the video, Mr. Cullinane.

12 (Whereupon, the video was played).

13 MR. TRIPI: Now, when you look at the video, it
14 appears to be the same injuries, but I said the victim is a
15 little unclear in his memory in terms of whether he filmed
16 something along those lines, but he thinks it was doctored as a
17 mock to him. But both of those were on Mr. Bella's phone,
18 either way.

19 Next slide.

20 And I'll add, Judge, this morning we obtained the
21 video from the store. There was the liquor store across the
22 street. The victim himself actually went and got the video;
23 police department never did. We couldn't get the video through
24 the police department. Victim had it on his phone still. That
25 is how we got it just this morning. I don't know if we have

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2 discs yet. We now have discs. I'll play it at the end so you
3 can see and I'll narrate the video.

4 Now, the next slides, Judge, you're going to see
5 the back story. You're going to see Mr. Bella's interaction
6 with his ex-girlfriend that was on the boat. A couple months
7 before Mr. Dugas is violently assaulted by having his face
8 slammed in the concrete by Mr. Bella, his ex-girlfriend files a
9 complaint for an Order of Protection. It gets granted. It's a
10 stay away order issued by Judge Carter in Family Court. She
11 stated she received an e-mail from Mr. Bella at 11:35 that
12 morning. And then they did some investigation to determine
13 whether he was served the Order of Protection. And they
14 learned that, essentially, the e-mail came before Mr. Bella
15 received the Order of Protection. So he was given what was
16 essentially a lecture, but what is noted that I highlighted is
17 the ex-girlfriend says that Mr. Bella carries a gun that he has
18 a permit for. So he must have lied to her, because he has no
19 pistol permit. He is a felon out of Florida. He is charged
20 with felon in possession by this Court. And we recovered
21 shotgun ammunition, a shotgun, 223 caliber ammo, and 9 mm
22 ammunition during an execution of a search warrant at his
23 house. I should say HSI, not us, recovered those items,
24 corroborated that he likely has those items, that she has seen
25 and he gave her some BS about his lawful ability to have a gun.

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2 Next slide.

3 You won't see any video, but you'll be able to
4 hear video, Judge. This is from Mr. Bella's phone, January
5 1st, 2015. So now about seven months before the Dugas assault
6 and four months before the complaint by the ex-girlfriend to
7 the Kenmore police, you're going to hear some type of domestic,
8 I'm not going to get into whose fault it was that started the
9 domestic, but you'll hear the interaction here. It seems as
10 though Mr. Bella is recording the video function of his phone,
11 but maybe it's in his pocket and you can't see anything, but
12 you'll hear audios. Please play the video.

13 (Whereupon, the audio is played.)

14 MR. TRIPI: Next slide, please.

15 So that brings us to the COVID-19 related wire
16 fraud that I discussed, your Honor. So I'll go through what is
17 on the screen, but just as a summary, Mr. Bella, similar to
18 what he did after the Lackawanna Six when he saw opportunity
19 with the "dirty bomb" pill. He did the same thing in the
20 course of this COVID-19 pandemic. When everyone is worried
21 about their loved ones being safe and whether people have been
22 infected that they love, he is laying the ground work to scam
23 people to make money. And he does a couple of things. From
24 his Facebook, we know that Mr. Bella seems as though he was
25 down in Florida near the end of March when this thing was

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2 heating up. And on March 24th, there is a company that is

3 created down there that is it associated with Mr. Bella through

4 an individual in Florida. Mr. Bella, six days after returning

5 to -- withdrawn. Six days later, there is a post on Mr.

6 Bella's Facebook page publically profiled soliciting people to

7 buy COVID-19 testing kits. And the March 30th post is

8 excerpted. Says "Attention health care facilities, we have FDA

9 approved COVID-19 test kits that every health care facility

10 either has very short supply of or is completely out of. They

11 are 48-hour turnaround. N-95 masks by the pallet is available

12 as well. E-mail JBella@Med-Cor.com for pricing and

13 availability. So what Mr. Bella and others, as yet unindicted

14 co-conspirators, did was make representations to a company that

15 legitimately manufactures COVID-19 test kits. This company,

16 they sell these things to a third-party distributor who works

17 with them that they've agreed to work with or directly to end

18 users of the test kits. What is very important is these test

19 kits are laboratory kits. In other words, if you go to your

20 doctor, your standard doctor's office with these kits, they

21 will not be able to use them. They are not point of care kits.

22 So Mr. Bella causes representations to be made to the

23 manufacturer that his company Med-Cor, which, on his website at

24 the time is only a medical staffing company, sells no

25 equipment, no devices, has no licenses. It's represented to

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2 the manufacturer that they are a laboratory capable of
3 utilizing these kits, essentially, so they get them at a lower
4 price. So the manufacturer is a victim selling things in a
5 wire fraud scheme at a lower price than they would and then
6 selling them to someone who really can't use them. Taking
7 5,000 good kits that could be use by a lab, an actual lab, to
8 run a legitimate tests. So Mr. Bella gets these at a lower
9 price and then tries to flip them at a price of about \$8 a kit.
10 He tries to flip them for \$35 a kit. Knowing he is a
11 fraudster, they began an investigation right away and he was
12 dealing with an undercover, the whole time jacking up the price
13 from eight bucks to 35 bucks, misrepresenting who Med-Cor was,
14 misrepresenting the kits as they were point of care tests
15 misrepresenting that Med-Cor was a laboratory, pretending that
16 they had doctors and scientists on staff to answer questions,
17 and that they had like a legitimate capability to back someone
18 up who bought these tests. It was all garbage. And he is
19 going to be indicted for this in short order. It's just longer
20 to write this than the drug complaint he has got. So that is
21 the gist of it.

22 As you see, we put up here, he has no licenses, no
23 FDA licenses on any publically available information. The PDF
24 that he sent and he e-mailed to who we now revealed as an
25 undercover was a PDF that the PDF shows that they created the

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2 same day that the UC reached out to them indicating they had
3 test kits and certain reagents and the reagents were reagents
4 from a Chinese manufacturer that don't appear through any
5 research that the agent has been able to do to even match the
6 test kits. So it seems like the PDF was put together on the
7 fly. Another misrepresentation to Bio-Tech.

8 Next slide, please. Next slide.

9 I just sort of excerpted some of the false
10 statements. This is not by any means conclusive, but Mr. Bella
11 said Med-Cor just sold 25,000 test kits to the United States
12 Government, to Lockheed Martin, who, by the way, is not the
13 United States Government. They are a defense contracting
14 company. And now I've got 25,000 left. Well, we consulted
15 with Lockheed Martin and subpoenaed them and they never
16 purchased any COVID-19 test kits and none from Med-Cor. I
17 indicated before Mr. Bella sent a PDF labeled the COVID-19
18 product line and he has made conflicting statements on whether
19 the test results return in 90 minutes or in 45 minutes.

20 Bella represented that "Med-Cor has every single
21 thing that can be imagined as far as testing for COVID from
22 conception to shrink wrap." And that, quote, "Scientists and
23 doctors are in the lab fielding calls every day." I'm sorry,
24 "doctors and scientists in the lab answering phones, there is
25 not a call center." Bella even, at one point, pretended to be

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2 yelling down the hall to someone saying, "Hey, Dr. Ken, has
3 those swabs. Dr. Ken can send those out." Words to that
4 effect. Pretending there was a doctor on staff at Med-Cor.
5 Bella indicated he went to Dartmouth and to the UC. You can
6 see from the Pretrial Services Report, he did not go to
7 Dartmouth. He indicated that they were an exclusively licensed
8 reseller of this product, which, as you now know from the
9 product manufacturer, would not have sold to Med-Cor if they
10 were not working with an end user laboratory.

11 MAGISTRATE JUDGE ROEMER: Is that, Mr. Tripi,
12 because that is their policy or is it illegal to sell to
13 somebody?

14 MR. TRIPI: I'll need to consult with the agent to
15 answer that question accurately, your Honor, if I may.

16 MAGISTRATE JUDGE ROEMER: Okay.

17 (Whereupon, there was a pause in the proceeding.)

18 MR. TRIPI: That is the manufacturer's policy, not
19 regulatory. And as I indicated to procure the kits, he caused
20 misrepresentations to the manufacturer and then as well as to
21 the potential buyers. I've already covered the cost, but,
22 basically, he was going from a \$40,000 purchase to \$175,000
23 anticipated gain in his sales.

24 Next slide, please. So this was -- this is a form
25 from the search warrant. These are some of the COVID-19 test

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2 kits that were found. Not in a freezer, laboratory freezer as
3 he indicated to the buyer/undercover, but on its label. In
4 Med-Cor, there is no laboratory there. It's literally some
5 tables and chairs and cubicles. This is executed from a search
6 warrant executed at 155 Summer Street, Buffalo, New York search
7 warrant was executed by this Court.

8 Next slide, please.

9 Getting onto the drug trafficking. I'll just
10 proffer, we have multiple sources that report that Mr. Bella
11 distributes controlled substances in Buffalo area bars.
12 Different bars. In January of 2016, a concerned citizen, who
13 is fully identified and known to HSI, provided information that
14 Mr. Bella was involved in MDMA/ecstasy distribution in downtown
15 Buffalo. The information provided indicated that Bella was
16 also involved in illicit debt collection, various scams, and he
17 owned a boat and was traveling to and from Canada without
18 inspection from customs officials. HSI research also indicated
19 that he had been previously stopped attempting to bring MDMA
20 into the United States.

21 Next slide, please. That background caused the
22 stop and seizure of the phone at the border and of the download
23 of the phone when the agent downloaded the phone and saw a
24 number of the contacts that I indicated in his phone in terms
25 of organized crime and drug trafficking types, the HSI Officer

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2 did some deconfliction checks, database checks that lead to a
3 meeting at the DEA in Buffalo. And that is because an
4 associate of Bella, a phone number that was in his phone hit
5 off a DEA case, which causes HSI to do the courteous thing and
6 sort of see why they are having cases sort of bump off each
7 other. Now, the DEA agent that the HSI agent went to meet with
8 was not Mr. Bongiovanni, it was somebody else. Mr. Bongiovanni
9 sort of invites himself into the conference room. This HSI
10 task force officer never met him, didn't anticipate meeting him
11 and entered the conference room. In the conference room, the
12 TFO summarized his investigation into Bella and summarized
13 Bella's associates and described how he had information
14 regarding Bella's narcotics distribution and information about
15 Bella and his associate.

16 Next slide.

17 The TFO detailed that Bella had been encountered
18 at the Peace Bridge and that the TFO obtained the cell phone
19 information that they were talking about in the meeting from
20 that search of the officers that the TFO mentioned were later
21 determined to be contacts in Bongiovanni's phone. As you know,
22 Special Agent Bongiovanni is now indicted. That indictment is
23 pending before this Court. He had had his own phone seized in
24 August of 2019, and that is how we learned some years later of
25 the overlapping associates. During the meeting, as reported by

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2 the TFO, Bongiovanni appeared to be making excuses, quote,
3 "that the facts established by the HSI officer were simply a
4 coincidence and not related to criminal investigation."

5 Next slide.

6 The grand jury disagreed when they indicted Mr.
7 Bongiovanni after hearing the totality of the evidence in that
8 case in indictment 19CR227, which is an exhibit we're
9 proffering in this hearing as one of the marked exhibits.
10 Overt act No. 7, Count 1, describes that interaction with Agent
11 Bongiovanni and the HSI officer. And the grand jury's finding
12 was this, in or about August of 2016, the defendant,
13 Bongiovanni, used his position as a DEA Special Agent in an
14 attempt to dissuade a member of a different federal law
15 enforcement agency from investigating some of the defendant,
16 Bongiovanni's, friends and associates. Those friends and
17 associates would include Mr. Bella and others mentioned during
18 that meeting, that deflection. There are other details that I
19 won't proffer publically related to that, but I believe this is
20 sufficient as it relates to Mr. Bella.

21 Next slide, please.

22 The Bongiovanni indictment, 19CR227, lists three
23 as yet unindicted co-conspirators in that indicted.
24 Co-conspirator one is Peter Gerace; No. 2 is Anthony Gerace;
25 and there is a number three. All of those contacts are also in

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2 Mr. Bella's phone seized in July of 2016. They are among the
3 45 odd contacts that I referenced earlier. So he had all of
4 Bongiovanni's co-conspirators in his phone, referenced
5 co-conspirators.

6 Next slide, please.

7 Search warrant at Defendant Bella's residence, 224
8 Summer Street is laid out in more detail in the Criminal
9 Complaint, which is an exhibit here. But, what you have here
10 is cocaine, that was it field tested positive and weighed on
11 Mr. Bella's scale was two ounces. He had more cocaine in the
12 toilet tank and other controlled substances that have been
13 field tested: THC gummies, lollipops, I believe marijuana vape
14 cartridges, suspected mushrooms, MDMA, various pills, THC. He
15 has made statements about being able to acquire some of those
16 items in larger quantities to people. He has had drug parties
17 at his house where he distributes drugs and makes them
18 available. That source information, that is certainly
19 corroborated by the findings of the search warrant. The gun in
20 the house was, as laid out in the complaint, was in the same
21 room as the approximate two ounces of coke, as well as the 9 mm
22 the 223, the shotgun ammunition and the shotgun. Even though
23 ammunition is no different than possessing a gun, but he had
24 them all in the same room as the cocaine here. He is not
25 allowed to have any of them based upon his felony convictions

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2 out of the state of Florida.

3 Judge, at this point in time, I only have one
4 slide left we're going to switch computers to play that assault
5 video from the liquor store. It's relatively short.

6 MAGISTRATE JUDGE ROEMER: Let me ask. Are these
7 drugs that were found in his residence, are these distribution
8 amounts.

9 MR. TRIPI: The cocaine is certainly a
10 distribution amount as well as the gummies, the lollipops and
11 the edibles. I turned to verify to the agents, those were
12 larger amounts.

13 MAGISTRATE JUDGE ROEMER: And it's illegal to have
14 or sell those?

15 MR. TRIPI: Yes, that is correct. Now, there is
16 certain information in Mr. Bella's phone regarding marijuana
17 and marijuana distribution. We are not a legalized marijuana
18 state in any shape or form, and, of course, it is illegal
19 federally.

20 MR. EOANNOU: Judge, may I use the restroom while
21 they are switching?

22 MAGISTRATE JUDGE ROEMER: Sure.

23 (Whereupon, there was a pause in the proceeding.)

24 MR. TRIPI: Okay. Judge, now this is the video
25 from across the street from the bar is a liquor store. This is

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2 video from July 24, 2018, that the victim went and procured
3 himself. Like I said before, the Buffalo Police, according to
4 the victim, didn't initially get it. He got it for them.
5 We've been unable to get it from the Buffalo Police Department.
6 The victim had it on his phone and gave it to us this morning.

7 (Whereupon, the video is played.)

8 Person with the hat is the victim. And it appears
9 at this point that the 2:22 of the video. He and Mr. Bella had
10 walked across the street, just to set it up for you. At about,
11 if you look through the window on that door, they will be
12 talking to the right going back and forth. What you'll see the
13 victim with the hat start to walk away and Mr. Bella punch him
14 and then you'll be able to look towards the left of the camera
15 angle, and you'll see it appears, you'll see the victim try and
16 get up and Mr. Bella punching down, indicating that the victim
17 is on the ground. Okay. I wanted to set that up for you and
18 I'll let it run now. Please play the video.

19 (Whereupon, the video is played.)

20 MR. TRIPI: We submit that the video is consistent
21 with Mr. Bella hitting the victim, hitting the victim while he
22 is down. There are positions consistent with kicks in there.
23 And the victim, as I indicated, Judge, indicated Mr. Bella
24 smashed his face into the ground in the concrete. And the
25 photos we've showed you during the slide show are consistent

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2 with that type of injury. And Mr. Bella, ultimately, was the
3 one who was arrested and charged. The dismissal did not meet
4 the satisfaction of the victim in any way, shape or form. And,
5 again, that victim is available to testify today, if necessary.

6 Judge, again, we'll have 23 exhibits in evidence.
7 The last exhibit, which is not printed on your list will be the
8 video from the liquor store regarding the assault. We've
9 demonstrated a 30-year history of violence, violent arrests,
10 violent conduct arrests, violence specific to individuals,
11 organized crime associations, fraudulent schemes, victims in
12 that regard, drug trafficking, 924(c), which is a crime of
13 violence. He is charged with that in the Complaint. This
14 30-year history should not be ignored. He is violent. He is a
15 fraudster, and he has a lot of contacts that need further
16 investigating to include the currently charged former DEA
17 agent. And if he gets out, we fear that individuals we
18 referenced in this proffer, individuals that have information
19 about it, and it's been clear to us that the presumption cannot
20 be rebutted in this case, he is a flight and a danger, and he
21 has various identities and various social security numbers, at
22 least two identities and a couple more things. The defendant
23 has since deleted his Facebook account that he was advertising
24 the COVID-19 test kits. He caused an unindicted co-conspirator
25 to do that, apparently, but we already secured it and we have

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2 it and we obtained a search warrant from your Honor. So we'll
3 have all of that data. We might uncover more victims of the
4 scams in that. The verification source for the Pretrial
5 Services Report is a friend of Mr. Bella's. That person has
6 already interviewed with HSI, and told them that everything he
7 did was at Bella's direction. This is in relation to the
8 COVID-19 test kits. This person was also involved in that and,
9 as yet, an unindicted co-conspirator. Mr. Bella's presentation
10 shows he has access to personal information so he was having
11 conversation with Special Agent Maryanne Halladay post-arrest
12 and Mr. Bella asked Agent Halladay for information about her;
13 her phone number, things like that, I think. And the agent
14 didn't provide Mr. Bella any of that information. And Mr.
15 Bella made, like, an arrogant comment in gest that he would
16 just run a skip trace on the agent, meaning he would do his own
17 background check on the agent and get his information.

18 MAGISTRATE JUDGE ROEMER: So, it's your position
19 that he trying to intimidate the agent?

20 MR. TRIPI: Just letting the agent know he could
21 get background information. The agent certainly didn't feel
22 intimidated. Gives you an idea, I haven't had a lot of cases
23 where an arrestee says to an agent, "I'll run a skip trace on
24 you."

25 MAGISTRATE JUDGE ROEMER: And he asked for her

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2 phone number?

3 MR. TRIPI: I believe it was phone number. Phone
4 number. The agent is here, I can confirm that for you.

5 MAGISTRATE JUDGE ROEMER: I'd like to know what it
6 was.

7 MR. TRIPI: Let me get that exactly. Your Honor,
8 yes, Judge, I confirmed, it was the agent's phone number that
9 he was --

10 MAGISTRATE JUDGE ROEMER: So he asked for the
11 agent's phone number.

12 MR. TRIPI: This was post-arrest, yes, waiting to
13 come to court. And the agent did not give her phone number to
14 him.

15 MAGISTRATE JUDGE ROEMER: And what context was it
16 in?

17 MR. TRIPI: The context was he asked for her phone
18 number.

19 MAGISTRATE JUDGE ROEMER: I mean, did he say
20 something like, "I can provide you with additional information,
21 why don't you give me your phone number" or was it, "who the
22 hell are you, I want your phone number," or something like
23 that?

24 MR. TRIPI: Just give me one more moment, Judge.

25 He asked for the agent's number. The agent said

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2 your lawyer can get ahold of me. He asked for a card and she
3 said, I don't have a card. And he said, "that's okay, I can
4 just skip trace you myself." So that was the conversation.

5 MAGISTRATE JUDGE ROEMER: Now, Mr. Tripi, are you
6 moving under 3142(f)(1).

7 MR. TRIPI: 23(1), 924 is a crime of violence,
8 that is 23(1)(A) as well as (f)(1)(C).

9 MAGISTRATE JUDGE ROEMER: Hang on, let me get
10 there.

11 MR. TRIPI: Sure.

12 MAGISTRATE JUDGE ROEMER: So you're moving under
13 (f)(1)(A).

14 MR. TRIPI: 924(c) being a crime of violence.

15 MAGISTRATE JUDGE ROEMER: Okay.

16 MR. TRIPI: (F)(1)(C), controlled substance
17 offenses with a maximum of 10 years or more.

18 MAGISTRATE JUDGE ROEMER: And are you moving under
19 31(f)(2)(B).

20 MR. TRIPI: Oh, yes, Judge. I mean, I am.

21 MAGISTRATE JUDGE ROEMER: And then as far as a
22 presumption goes, is there -- there is at least two different
23 bases for the presumption.

24 MR. TRIPI: Yes (e)(3)(A) and (B). Drug offenses
25 with the penalties of 10 years or more, and an offense under

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2 924(c) as well.

3 MAGISTRATE JUDGE ROEMER: 924 is using a weapon
4 while drug trafficking.

5 MR. TRIPI: Possession in furtherance of.

6 MAGISTRATE JUDGE ROEMER: Now, as far as weapons
7 go, the only weapon you recovered was a shotgun, correct?

8 MR. TRIPI: A shotgun and the ammunition involved,
9 those are the --

10 MAGISTRATE JUDGE ROEMER: But the only thing found
11 was a shotgun?

12 MR. TRIPI: Technically.

13 MAGISTRATE JUDGE ROEMER: No, I understand. And
14 as far as drug trafficking goes, other than what you recovered
15 at the house, do you have witnesses that are going to say, "we
16 sold him drugs" or "he was in the drug business"?

17 MR. TRIPI: Yes. As I indicated, I had multiple
18 slides where I talked about sources providing information about
19 his drug dealing.

20 MAGISTRATE JUDGE ROEMER: Okay. Now, for the
21 COVID, he is making false statements to the supplier of the
22 tests.

23 MR. TRIPI: He is causing false statements to be
24 made.

25 MAGISTRATE JUDGE ROEMER: So that he can obtain

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2 these tests?

3 MR. TRIPI: Yes.

4 MAGISTRATE JUDGE ROEMER: And as part of that, so
5 he could obtain them at a certain price, the \$10 a test.

6 MR. TRIPI: Both, so he could obtain them in the
7 first instance and get them at a lower price.

8 MAGISTRATE JUDGE ROEMER: Is that the price that
9 they normally sold it at was \$10.

10 MR. TRIPI: They would sell it to a direct
11 laboratory for about 10 bucks a kit or a distributor for 8
12 bucks a kit. No, I'm sorry, it's the other way around. They
13 would sell to an end laboratory. They would sell them for \$8,
14 and I believe if there was a distributor in the middle, they
15 would be sold for about 10.

16 MAGISTRATE JUDGE ROEMER: And did he actually pay
17 them for them?

18 MR. TRIPI: The company got paid their \$40,000,
19 yes.

20 MAGISTRATE JUDGE ROEMER: For the test kits?

21 MR. TRIPI: Yes.

22 MAGISTRATE JUDGE ROEMER: And then he turned
23 around and sold them to other people. What other types of
24 people is he selling to; individuals, labs?

25 MR. TRIPI: As I indicated, I don't want to get

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2 too detailed on the undercover, but the undercover was
3 positioned as an another business, not an individual or a lab.

4 MAGISTRATE JUDGE ROEMER: And at an inflated
5 price?

6 MR. TRIPI: Yes.

7 MAGISTRATE JUDGE ROEMER: And what was the price?

8 MR. TRIPI: The price was for \$40,000 that he paid
9 he was going to sell for \$175,000. So the kits are \$8 a test
10 were being in inflated to \$35 a test.

11 MAGISTRATE JUDGE ROEMER: Okay. So between four
12 and five times as much as.

13 MR. TRIPI: Roughly, yes.

14 MAGISTRATE JUDGE ROEMER: As they were sold.
15 Okay. And can you tell me the types of misrepresentations he
16 was making to the buyer.

17 MR. TRIPI: Yes, that they were a laboratory and
18 Med-Cor is not.

19 MAGISTRATE JUDGE ROEMER: That they were a
20 laboratory, was that it basically that he was a laboratory?

21 MR. TRIPI: Yes. But without that representation,
22 they wouldn't have sold the kits and they wouldn't have sold
23 them at that cost that was the key representation that Med-Cor
24 was a lab and they are not. Without that representation, he
25 doesn't have kits then to sell at an increased rate.

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2 MAGISTRATE JUDGE ROEMER: Hang on one second.
3 Okay. You went through the fraud or the debt collector issues.

4 MR. TRIPI: Judge, if I could, there was -- I'm
5 sorry. Judge, you asked me a question if there were any other
6 weapons found. I'll have you recall the statement that his
7 ex-girlfriend gave about him having a pistol permit, which he
8 doesn't have indicating that she has likely seen a pistol. But
9 from his phone, there were two other photos, again, these are
10 also up on the profile, so I can't tell you if they are a real
11 guns, but it's Mr. Bella with some type of long gun and two
12 photos and we did find rifle ammunition as well.

13 MAGISTRATE JUDGE ROEMER: It's a rifle, not a
14 shotgun?

15 MR. TRIPI: It appears to be a rifle.

16 MAGISTRATE JUDGE ROEMER: And what was the
17 disposition of the federal case?

18 MR. TRIPI: The information I have is what's in
19 the slide the, defendant was sued and he, I think, paid money.

20 MAGISTRATE JUDGE ROEMER: Okay.

21 MR. TRIPI: I'd have to go back to my slide and
22 review it again.

23 MAGISTRATE JUDGE ROEMER: Okay. Do you know if
24 the case is still pending, not pending?

25 MR. TRIPI: No, it's done. I haven't gone and

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2 pulled the civil docket sheet. I haven't done that.

3 MAGISTRATE JUDGE ROEMER: Is that it, Mr. Tripi?

4 MR. TRIPI: As I was wrapping up, he is a
5 long-time individual involved in fraud, a lot of information
6 regarding history and drug dealing, currently drugs found,
7 firearms, ammunition, the history of violence, threats of
8 violence, the specific individuals are just people that write
9 him a ticket, and the presumption is enough to detain him in
10 this case. That is what the law says. The presumption is
11 sufficient if it is un rebutted. Given all of the totality of
12 the evidence we've presented, we believe he should be detained.
13 He is a danger and a flight risk. Thank you.

14 MAGISTRATE JUDGE ROEMER: Tell me what a skip
15 trace is.

16 MR. TRIPI: They have access to certain databases,
17 sort of like Lexis Nexus search. And he could find out
18 information about people. That is my understanding of it.

19 MAGISTRATE JUDGE ROEMER: It's not through law
20 enforcement or anything like that that you would get this
21 information?

22 MR. EOANNOU: No, Judge, it's a commercial --

23 MR. TRIPI: I don't know the answer to that,
24 Judge. I'll take Mr. Eoannou's representation. I was not
25 prepared to answer that question. I don't know. All I know is

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2 he had it and enough to use it on the agent. I don't know if
3 he has it lawfully or unlawfully. He had the ability.

4 MAGISTRATE JUDGE ROEMER: Let's hear from
5 Probation so you can respond all at one time, Mr. Eoannou,
6 okay?

7 PROBATION: Judge, as cited in the Pretrial
8 Investigation Report dated April 24th --

9 MAGISTRATE JUDGE ROEMER: Officer Mamizuka, do you
10 not have a microphone over there?

11 PROBATION: I do, Judge.

12 MAGISTRATE JUDGE ROEMER: I'm having trouble
13 hearing you.

14 PROBATION: Judge as cited in the Pretrial
15 Services Report dated April 24, 2020, we ask you to consider,
16 respectfully, recommending that the defendant be detained. The
17 information is outlined in the report. Judge, at this time, I
18 don't have anything to add that isn't already cited in the bail
19 report.

20 MAGISTRATE JUDGE ROEMER: Okay. Mr. Eoannou.

21 MR. EOANNOU: Thank you, Judge. Judge, just to
22 answer that one question. Clients all of the time ask an agent
23 for their card or their phone number.

24 MAGISTRATE JUDGE ROEMER: Do me a favor, pull the
25 microphone over.

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2 MR. EOANNOU: Sometimes they contact them even
3 before they contact their lawyers, Judge. There was no threat.
4 That is not in any way to be taken against Mr. Bella.

5 MAGISTRATE JUDGE ROEMER: Okay.

6 MR. EOANNOU: And, Judge, I would like to put this
7 case in the proper perspective. A lot of times we get into
8 these detention hearings and we hear all this innuendo. He is
9 facing a five-year mandatory minimum. And that is on the gun,
10 which I'll address shortly.

11 Let's talk about Count 1. Count 1 has to do with
12 the cocaine. My client tells me, and I asked him repeatedly,
13 that it is a movie product. That is what they call Bolivian
14 cut that you can buy at bodegas. Yes, it would field test
15 positive. When the laboratory comes back, that will not be
16 cocaine. It was actually Angelo Salazar, when I saw the
17 picture, Judge, who was an actor in *Scar Face*, who used it in a
18 scene in a movie that Mr. Bella was doing a pilot for called
19 "Unmakeable."

20 MAGISTRATE JUDGE ROEMER: So it's not cocaine?

21 MR. EOANNOU: He is telling me it is not cocaine.

22 MAGISTRATE JUDGE ROEMER: Is there any cocaine in
23 it?

24 MR. EOANNOU: It's what they called Bolivian cut,
25 you buy it at a bodega and it's fake cocaine. It's actually a

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2 detergent, I believe. But people -- it looks like cocaine.

3 MAGISTRATE JUDGE ROEMER: And he had this for a
4 movie?

5 MR. EOANNOU: A movie, yes, Judge. And I actually
6 saw a picture of Angelo Salazar holding what appeared to be a
7 similar bag.

8 MAGISTRATE JUDGE ROEMER: Who is Angelo Salazar?

9 MR. EOANNOU: He was Chi Chi in *Scar Face*.

10 MAGISTRATE JUDGE ROEMER: Chi Chi.

11 MR. EOANNOU: Chi Chi. I don't know if you know
12 *Scar Face*, he was Chi Chi in *Scar Face*. And he was actually
13 doing a pilot in a movie. As Mr. Tripi said, Mr. Bella does
14 some acting, and that is where that came from. In terms of
15 this distribution amount of cocaine, there is, again, Judge,
16 there is no cutting agents in the house, there were a few
17 baggies. I understand, although, they didn't photograph them
18 in the safe where the same Bolivian cut was that was a movie
19 prop. So there isn't packaging materials. There isn't
20 customer lists. And the interesting thing about it, Judge, and
21 they didn't find money in the house. Nothing typical of
22 distribution at all. Typical of a drug user, absolutely,
23 absolutely.

24 Now, let's go to Count 2, Judge, maintaining a
25 drug premises. Hardly a basis to detain. These are personal

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2 use quantities of cocaine. Now, Mr. Tripi says the gummies are
3 for distribution, the quantity. Judge, if you see the
4 pictures, and I don't recall whether he showed the picture or
5 not, they are packaged gummies from a dispenser. I looked into
6 it, there are 150 gummies, which soccer moms buy. I never
7 heard anyone being in the gummy business because you go down
8 the street and get a medical card and anyone can get one and
9 buy that. And maybe there is 10 bags. A bag of gummies costs
10 between \$10 and \$15.

11 MAGISTRATE JUDGE ROEMER: He has a prescription
12 for it?

13 MR. EOANNOU: He does have a medical card, yes.
14 Now, if you bought these gummies and you wanted to double your
15 money, you might make \$150. There is no way, no how that
16 someone is going to be out there selling gummies where you can
17 buy them all day, all night at a dispenser. Same thing with
18 the vape cards. He does have a medical marijuana card from Dr.
19 McVick at Dent Neurological. Now, the MDMA. Three pills.
20 Didn't even know they were there. Clearly not for
21 distribution, that three pills in the house, seven years old.
22 Now, just to give you an example, Judge, an MDMA pill sells
23 between 20 and \$30. What are you going to make, \$60? Nothing
24 to do with distribution. The mushrooms, again, they didn't
25 show you pictures of these because they are small. Mushrooms,

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2 they go on the internet and they home grow them in crock pots,
3 these mushrooms they call them.

4 MAGISTRATE JUDGE ROEMER: They home grow them in
5 what kind of hut.

6 MR. EOANNOU: Crock pots. Again, no street value.
7 So we're not talking kilos, we're not talking half kilos, we're
8 not talking sales, we're not talking ounce marijuana. We're
9 talking personal use of drugs that this person, my client, uses
10 drugs. That is the "maintain the premises." They want to
11 detain him on that. Again, no monies, no sales. Baggies,
12 which he assures me is fake cocaine, no buys, no marked money,
13 the total money is de minimus. Now they say, well, we have a
14 source that told us he sells drugs. I think the question the
15 Court has, do you have buys?

16 MR. TRIPI: No, that wasn't the question.

17 MAGISTRATE JUDGE ROEMER: Well, then, I think it
18 was more or less do you have evidence of him selling the drugs.

19 MR. EOANNOU: They don't have a buy into Mr. Bella
20 that I'm aware of. Now, the one, Judge, that is most
21 significant which triggers the presumption is the 924(c)
22 charge. The 924(c), I just had a picture of it, is the gun.
23 Do you have a picture of the gun with you. I had it here. Do
24 you have a picture of the gun?

25 MR. TRIPI: Electronically.

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2 MR. EOANNOU: I have it, Judge. I'll mark it as
3 defendant's A. Now, they are saying 924(c), just like
4 distribution with the drugs, I don't want to mess this up. Can
5 you -- can you see it up there? Can you see the gun, Judge?

6 MAGISTRATE JUDGE ROEMER: Yes, now I can.

7 MR. EOANNOU: Now, that is what triggers the
8 924(c) charge. Well, you can see, it's rusted. And you can
9 see it's a single barrel shotgun with a hammer that you have to
10 pull back to shoot. It was zipped, I believe, in a case in an
11 armoire. So anybody that knows anything about guns, if you put
12 a shell in that shotgun with the rust on the outside and the
13 rust would be on the inside of the barrel, that gun would
14 probably blow or explode. Now, we've seen guns in drug cases.
15 This Court is very experienced, we know there are AK-15s,
16 AK-47s, that is a long-barrel single shot rusted trigger pull
17 with a heavily rusted trigger of shotgun that the long barrel
18 is usually used for bird shooting. So I looked at the
19 complaint, Judge, and it had an AU number on it, Criminal
20 Complaint, by the agent. So I looked up the serial number of
21 the gun. The gun was built, according to the serial number
22 provided by the government, in 1980. It is a 40-year-old
23 rusted shotgun single shot with a hammer pull. That might be
24 the last gun in the world you would use to protect a drug deal.
25 Now, you can make it a 924(c). I understand under strict

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2 interpretation, but I don't think anybody really thinks anyone
3 would use that gun near a drug dealer. So the fact of the
4 matter is, that gun was a gift from his uncle many years ago.
5 He has lived in his house for over fifteen years. Mr. Bella
6 has never shot a gun. He has never fired that one and it's
7 unsafe to fire that one. I can't even imagine someone coming
8 into the house, "Give me your marijuana gummies, give me your
9 mushrooms." "Wait a minute, I'm going to pull a bird gun," and
10 you unzip it in the armoire and do that. Not going to happen.

11 MAGISTRATE JUDGE ROEMER: He has never fired a
12 gun?

13 MR. EOANNOU: What?

14 MAGISTRATE JUDGE ROEMER: Never fired a gun?

15 MR. EOANNOU: He told me he never fired a gun and
16 specifically asked --

17 MAGISTRATE JUDGE ROEMER: What was the 9 mm and
18 other ammunition?

19 MR. EOANNOU: Nine mm was a box of ammunition
20 where they are actually called point 223.

21 THE DEFENDANT: Nine mm and 223.

22 MR. EOANNOU: It was in the box. They had done
23 some work for Pierce Corporation. He has a company that
24 supplies staffing. And what that staffing, he was actually
25 going to want to make a key chain out of it and the key chain

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2 was actually in the house and the box, that is where the
3 bullets came from.

4 MAGISTRATE JUDGE ROEMER: So he had the ammunition
5 and he was going to make key chains.

6 MR. EOANNOU: There was actually a key chain in
7 the house, yes. They've been there forever. Thought about it.
8 Through the box in the armoire and never used it.

9 MAGISTRATE JUDGE ROEMER: Okay.

10 MR. EOANNOU: Now the 922(g), felon in possession
11 of a gun. Now, if you look at that felony, Brian, would you be
12 kind enough to pull up that exhibit?

13 MR. TRIPI: Not until you get our names right.
14 I'm just joking. We'll pull it up.

15 MAGISTRATE JUDGE ROEMER: I think you said Brian
16 and it's Brendan.

17 MR. EOANNOU: This thing bothers me, it affects my
18 brain.

19 MAGISTRATE JUDGE ROEMER: It fogs up the glasses.

20 MR. EOANNOU: Showing the conviction in Florida.
21 It's the Florida conviction. Can you see it, Judge.

22 MR. CLERK: It's warming up and it takes a minute
23 to grab it. Brendan, is it on your laptop?

24 MAGISTRATE JUDGE ROEMER: Did we have to switch
25 over to the ELMO? Is that what we have to switch back?

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2 MR. TRIPI: There is a hard copy in your packet.

3 MR. EOANNOU: I have a hard copy.

4 MR. TRIPI: They are the ones with the sticker on
5 them.

6 MR. EOANNOU: Want me to mark it as Defense B?

7 MR. TRIPI: It's already in as exhibit 10.

8 MR. EOANNOU: Thank you. Judge, if you look at
9 exhibit 10, this is the felony. When you look at it, and let
10 me give you some background, if I may, Judge. We're looking at
11 the charge in Florida, tampering with evidence and possession
12 of cocaine, right? That is the predicate felony. The
13 government did not give you those reports, although they have a
14 lot of other police reports. I completely understand it's old
15 and from Florida. However, that case involved a rolled up
16 dollar bill with a small amount of cocaine in it that when the
17 officer came up, he threw it into the bushes. This is the
18 felony. Now, I looked it up, and in Florida it says, if you
19 look at the checked box, "with good cause."

20 MAGISTRATE JUDGE ROEMER: I don't see a checked
21 box.

22 MAGISTRATE JUDGE ROEMER: Checked box says, "And
23 with good cause being shown, it is ordered that the
24 adjudication be withheld." What that means is, your Honor,
25 some type of supervision to the court, and then when you

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2 complete it, you get, basically what is called a state ACD.
3 This is the felonies that they are relying on. And if you look
4 in June of 2012 in one of the Government documents, he was
5 weeks or a couple of months, because the sentence was one year
6 to one and a half years. Successfully went through it to the
7 end. Was told the paper work would be put in. It wasn't. He
8 was notified, he came back down and because he didn't
9 successfully complete the probation, that was made a felony.
10 No extra -- in other words, you had to complete the supervision
11 and the case is essentially dismissed, or the adjudication is
12 withheld. And it's right there in the government's document.
13 Now, what happened is somewhere at the end of this, see, it's
14 June of 2012, it started in April of 2011 when he pled. It was
15 a year and two months through it, something happened, Mr. Bella
16 tells me, with the paperwork. He had to go back down and the
17 Court said you didn't successfully complete it, you're now a
18 convicted felon. However, no sentence. He went through the
19 probation and that's it. So that is this, when you're thinking
20 about, you know, violence and whether or not, in the fact-based
21 argument whether Mr. Bella needs to be detained. Again, not a
22 sale, not violent. It was cocaine in the dollar bill for
23 personal use, which he has a problem with, and throwing it out
24 the window.

25 Count 5, again, is the ammunition. Most of that

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2 wouldn't even fit in that gun, Judge, other than the shotgun
3 shell. So those are the counts that we're dealing with right
4 now here today for purposes of detention. A rusty shotgun that
5 I don't believe anybody would dare fire, a felony which is of
6 cocaine in a dollar bill, which could have been dismissed.
7 That is the basis for these, this 924(c) to trigger the
8 presumption. Now, what you have in house is and in Florida,
9 you have personal use by the defendant. Nothing else. Then
10 they want you to go to his criminal history, as they should.
11 As a 17-year-old, he got in a fight in high school. When he
12 was 21 years old, he had a dispute with a girlfriend. He spit
13 out the window on the cop car. Some of the spit hit the police
14 officer. And when he was 21-years-old, his sentence was two
15 days in jail, time served was his sentence. And Mr. Tripi
16 talked about this marijuana conviction in Florida. The
17 penalty, \$42 fine. How serious was that?

18 So, the assault. Now, the assault, Judge, I was
19 the lawyer. And if we're going to cross examine Mr. Dugas, I
20 would like to get my file and cross examine Mr. Dugas. Because
21 the last time I cross examined Mr. Dugas, your Honor, he didn't
22 come back, so.

23 MAGISTRATE JUDGE ROEMER: He didn't what?

24 MR. EOANNOU: He didn't come back the next day to
25 be cross examined. I started cross examining him in the

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2 afternoon, and he didn't come back for a good reason because
3 that video, I've seen it a thousand times, doesn't --

4 MAGISTRATE JUDGE ROEMER: The video from the
5 liquor store?

6 MR. EOANNOU: That Mr. Tripi just proffered,
7 exhibit 24, I believe, it doesn't show anything. But there are
8 a whole number of witnesses out there. And if you could
9 please, Mr. Tripi, put up that picture of Mr. Dugas at 16A?

10 MR. TRIPI: Rosalie, we'll have to switch back.

11 MR. EOANNOU: May I hand it up?

12 THE CLERK: We can put you on document camera.
13 I'll try and get the video. There it is.

14 MR. EOANNOU: Okay. Now, there were a number of
15 witnesses in that case, Judge. And who didn't know Mr. Bella
16 that well. What had happened was, yes, there was -- Mr. Bella
17 being a buffoon on social media, which, at times, he has been,
18 he is arguing back and forth with Mr. Dugas about whether or
19 not his ex-girlfriend is on his boat. They go into this bar on
20 Allen Street, of which I don't recall the name. They come out,
21 it's basically a mutual combat situation, and they both square
22 off. I think Mr. Bella gave him one punch and there was a
23 claim there was a kick when he was down. Mr. Dugas goes across
24 the street and we had the female victim and the bouncers, who
25 didn't know Mr. Bella, and there is an altercation between Mr.

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2 Dugas and this female. I know Mr. Tripi tries to say he pushed
3 her. It was more than that. To the point where, I believe,
4 they called the police. I believe the bouncers sprayed Mr.
5 Dugas because he is just drunk as can be. I wish the 911 tape
6 was here because his mother F bombing all over the 911, and
7 won't tell the police where he is. For good reason. So he
8 then runs down the street.

9 MAGISTRATE JUDGE ROEMER: Somebody sprayed him
10 with pepper spray?

11 MR. EOANNOU: What's that?

12 MAGISTRATE JUDGE ROEMER: Somebody sprayed him
13 with pepper spray?

14 MR. EOANNOU: Yes.

15 MAGISTRATE JUDGE ROEMER: Was it him or somebody
16 else?

17 MR. EOANNOU: It wasn't Mr. Dugas, it was the
18 bouncer across the street or maybe the woman.

19 MAGISTRATE JUDGE ROEMER: Sprayed Mr. Dugas?

20 MR. EOANNOU: Yes. He runs down the street. Then
21 he hits a planter. You see the circle on his head, the bruise
22 on his head?

23 MAGISTRATE JUDGE ROEMER: Yes.

24 MR. EOANNOU: That is from going face first into a
25 planter as we had witnesses to testify, Judge. Now, Mr. Bella

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2 was not down the street or across the street. So these
3 injuries are not from Mr. Bella. And, again, this page was in
4 the middle of the trial, but what happened was I cross examined
5 him in the afternoon, I recall. This was five years ago,
6 Judge, and then he didn't come back the next day. The Court
7 gave him an adjournment. And then there was another time he
8 was supposed to be in court, and, again, Judge, I'm doing the
9 best I can, he is saying he is off shore and can't get back.
10 Except I look on his Facebook and he has a picture of himself
11 having breakfast in LA.

12 MAGISTRATE JUDGE ROEMER: In Los Angeles?

13 MR. TRIPI: (Inaudible.)

14 MR. EOANNOU: Yes.

15 MAGISTRATE JUDGE ROEMER: In Los Angeles?

16 MR. EOANNOU: Yes. And the judge said, no, and
17 dismissed the case, and that is what happened. So that is the
18 violence, that is not the violence. And so if you look at it,
19 Judge, the conclusion is there is an argument on social media.
20 I'm sorry.

21 The next thing I want to talk about is Mr. Tripi
22 spoke with Jeffrey Hall. And this is wrong on Mr. Bella's
23 part, but certainly doesn't show he is violent. It shows empty
24 vessels make the most sound. So someone calls him a cokehead
25 on social media and he says that "I'll break your jaw, I'll

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2 break your jaw." The case would have been resolved, but for
3 COVID-19, as they always are with a violation. We're dealing
4 with one step up from a violation. And what does that show?
5 It shows he has a big mouth. And shows he has spats on social
6 media, that's it. So the conclusion there, Judge, from what
7 the criminal history shows is that he is not guilty of being
8 violent with his criminal history at all. He shouldn't use
9 acquitted, dismissed, thrown-out conduct against him. There
10 are no drug sales in his criminal history. There is drug use.
11 There is a felony that could have been dismissed and it's not
12 that severe at all. When you boil it down to the facts, it's
13 not that severe at all. Now, then going from the criminal
14 history, Judge, and the charged counts, so, so far we looked
15 into charged counts of rusty gun, criminal history, felony that
16 could have been dismissed. And then you go to the exhibits and
17 here comes my point. The one exhibit that, of course, they
18 didn't show you is the 40-year-old rusty shotgun that is
19 useless. That ammunition they talked about doesn't fit to the
20 gun. And, actually, as I indicated, was given to him when he
21 worked at Pierce with a staffing company. Now, this is a
22 Remington shotgun shell that you could put in the gun and
23 exploded the gun, that is the bullets.

24 Now, they had the phone and they gave it to me as
25 an exhibit, but they chose not to use it, is that Companies

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2 that Hire Felons. So over the weekend, Mr. Tripi was nice
3 enough to send me this list for companies that hire felons. So
4 I checked into that. And Mr. Bella works with Demone Smith and
5 with Buffalo Education Training Center and they place prisoners
6 with jobs. On the list is AT&T, Avis car rentals, Philip
7 Morris, things like that. Now, the photos of organized crime.
8 There is photos, of course they didn't show them.

9 MAGISTRATE JUDGE ROEMER: Mr. Eoannou, I guess I
10 missed the whole why are we talking about this other thing we
11 were talking about?

12 MR. EOANNOU: Only because it was provided to me
13 as an exhibit. Originally they wanted to show this to me, and,
14 I don't know, I'm just mentioning it because I received it in
15 discovery. I can tell you it may be of no moment.

16 MAGISTRATE JUDGE ROEMER: Well, I can tell you it
17 is of no moment to me because I can't tell what it's about or
18 why you would offer it. I thought you were going to connect it
19 up, but you went onto the next topic.

20 MR. EOANNOU: Businesses that hire felons, I think
21 they wanted to show that Mr. The Bella knew he was a felon, but
22 in reality, he works with the BETC, which is a business that
23 places felons.

24 MAGISTRATE JUDGE ROEMER: Okay.

25 MR. EOANNOU: Now, they talked about organized

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2 crime associates. There was one name mentioned, Frank BiFulco,
3 and to show organized crime. They showed a ceramics class
4 completion certificate from when Mr. BiFulco, when you look at
5 it, it was in 2008, was in a medical facility in Rochester,
6 Minneapolis, I believe. And last I heard, Mr. BiFulco was in a
7 convalescent home, I believe, and then he went to a hospital.
8 I don't know that he is ambulatory.

9 MAGISTRATE JUDGE ROEMER: This is Frank "Butchie"
10 BiFulco?

11 MR. EOANNOU: Yes.

12 MAGISTRATE JUDGE ROEMER: And he served a term for
13 arson?

14 MR. EOANNOU: He -- you were the clerk in front of
15 Judge Arcara. He burned a car and they charged him under a
16 terrorist act and he got 10 years.

17 MAGISTRATE JUDGE ROEMER: I think he got mail
18 fraud and then using fire in support because he set the car on
19 fire.

20 MR. EOANNOU: That was it, Judge, yes. So Mr.
21 Bella tells me he barely knew Mr. BiFulco. He was not
22 ambulatory and he went over and helped him with some food and
23 they would socialize for about a year there, and he then -- he
24 hasn't seen him in a year, year and a half.

25 Joe Bongiovanni, my client says if he walked in

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2 the courtroom, he wouldn't recognize him. He does not recall
3 ever meeting him. Wouldn't have known it was Joe Bongiovanni
4 in that meeting. The fact that he has people that know the
5 same people, it's a small town. A lot of people know Peter
6 Gerace, a lot of people know Anthony Gerace. There is no
7 adverse inference to be drawn. Some people have a thousand
8 contacts in their phones. It's not a fact that he knows Peter
9 Gerace and they did this and he knows Anthony Gerace and they
10 did this. There is some innuendo in the phone and made you
11 think that they are somehow related to organized crime. That
12 is not a basis to take someone's liberty.

13 And then they had the debt collection pitch. The
14 debt collection pitch is the proper pitch under the federal
15 fair debt collection act. That is a lawful proper pitch. That
16 is often used in school rooms before they say, okay, we won't
17 give you the hardship, if you miss a payment, you'll default.
18 And then Mr. Tripi wants to make great weight that at the
19 bottom, if they complain, if they complain, cease and desist.
20 Well, yeah, if they complain, cease and desist. What are you
21 going to read into that? If they read into that, if they
22 complain, harass them more, maybe, but not cease and desist.
23 In fact it says, show empathy, help out, no. A source says
24 that Bella used a fraudulent identity. This is the form that
25 they put up and talked about the fake I.D. with some false

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2 social security numbers. They sent it to New York intelligence
3 analysis. It's one of the exhibits.

4 Do you know what exhibit that is, Joe?

5 MR. TRIPI: Yeah, No. 5 for the New York State
6 intelligence report.

7 MR. EOANNOU: On that, Judge, that exhibit, it
8 says, checks with NYSIC databases were negative other than the
9 DMV database that was supplied as requested. They had one
10 thing. They looked through more, there wasn't. The Joe Bella
11 in New Jersey has nothing to do with Joe Bella at the table.

12 MAGISTRATE JUDGE ROEMER: You think those are two
13 different Joe Bellas?

14 MR. TRIPI: That's not true.

15 It's a Joseph Phillips I.D. that was used in New
16 Jersey that links to this fraudulent New York I.D.

17 MAGISTRATE JUDGE ROEMER: That is his picture.

18 MR. EOANNOU: That is the license provided by the
19 government. That picture doesn't come from New Jersey.

20 MR TRIPI: That is from the DMV of an I.D. that he
21 procured unlawfully.

22 MAGISTRATE JUDGE ROEMER: So you're not disputing
23 that. You're disputing on whether the conviction from New
24 Jersey is the same Joe Bella.

25 MR. EOANNOU: Yes. And what I'm pointing out in

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2 this exhibit that was sent to the New York State Intelligence
3 Center and says, "checks in databases for Joseph Phillips were
4 negative other than the one that they sent."

5 MAGISTRATE JUDGE ROEMER: So, you're arguing that
6 he didn't commit any crimes by Joseph Phillips that appear in
7 his criminal history?

8 MR. EOANNOU: Right. Now, that license, as far as
9 I can tell, goes to 2004. Clearly, it's expired and clearly it
10 can't be used to leave or be a risk of flight. And, secondly,
11 it was not found in the search of his home. So that is a non
12 issue. He did use it back in 2004, we'll concede that. But as
13 we're dealing with it today, a 16-year-old license, not in Mr.
14 Bella's possession, doesn't have too much to do with risk of
15 flight.

16 The pictures that were shown, lastly, of Mr.
17 Bella, they were 25 and 26. Joe, do you have the last two
18 pictures?

19 MR. TRIPI: Yes.

20 MR. EOANNOU: 25, Judge, 26. Those are acting
21 photos, Judge. That is a spear, that is acting. Again, has
22 nothing to do with violence or risk of flight.

23 MAGISTRATE JUDGE ROEMER: Remind me, were they on
24 Facebook or on a website?

25 MR. EOANNOU: They are from his phone and they

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2 also appear on his IMDB website.

3 MAGISTRATE JUDGE ROEMER: That is the actor
4 website?

5 MR. EOANNOU: It clearly has nothing to do with
6 dangerousness. Now, they had a drug photo, Judge, of the
7 cocaine and the scale that was shown to this Court in their
8 presentation. So I looked that up and that is a pocket-sized
9 calculator, about two and a half by two and a half inch called
10 a digiwave pocket size scale. It's about 15 years old. Costs
11 about \$20 on Amazon. Clearly has not been used for anything,
12 no large scale weight distribution whatsoever would be used
13 with a throw away scale like that.

14 The complaint in Orchard Park, we'll talk about it
15 briefly. Again, Judge, they use it as an exhibit. Yes, Judge,
16 he acts, again buffoonish, and, again, someone calls him a coke
17 user, and he says "I'll break your jaw." And the case in
18 Kenmore, that case was dismissed.

19 MAGISTRATE JUDGE ROEMER: That is the old
20 girlfriend that he and the other guy were fighting over, right?

21 MR. EOANNOU: I believe so, yes. Now the parking
22 attendant.

23 MAGISTRATE JUDGE ROEMER: L-a-r-a Bond.

24 MR. EOANNOU: The parking lot attendant, Judge,
25 that he was yelling at, he did not get a parking ticket.

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2 Actually, he knew the person on the bike. The police officer
3 pulled -- the parking lot -- parking ticket attendant pulled
4 up, almost hit the guy on the bike who Joe knew and got in an
5 argument, didn't hit the guy, didn't strike the guy. Called
6 the Commissioner, that's it.

7 The civil suits with the debt collections. We
8 know the Attorney General has concurrent criminal and civil
9 jurisdiction. We know that. We all handled these cases. Some
10 of them go criminal, some of them don't. In this particular
11 case, they chose not to take it criminally. They resolved it
12 civilly. And civilly, they fined him and he paid the fine.
13 And, again, Judge, with the Attorney General cases, you own the
14 company, you can give them the best pitch in the world, and I'm
15 not saying Joe is faultless here, don't get me wrong. They
16 want to make their commissions, they go off the script, you
17 know what happens, and then the company gets in trouble. And
18 I'm not even saying Joe had a fair script or a non-script, it
19 wasn't enough to rise to criminality, he paid the fine and that
20 was it.

21 MAGISTRATE JUDGE ROEMER: Do you know what
22 happened with the federal case?

23 MR. EOANNOU: Yes, a \$2,500 fine of -- \$2,500 fine
24 and banned from doing that type of business.

25 MR. TRIPI: That is the federal case. I think

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2 you're referring to the cease and desist.

3 MR. EOANNOU: Oh, the collection of over 1 million
4 dollars, I think the fine was 2,500.

5 MR. TRIPI: Two different cases.

6 MAGISTRATE JUDGE ROEMER: It was settled in a
7 civil way and paid the fine.

8 MR. EOANNOU: Yes. And Mr. Tripi wants to say the
9 domains are still out there. Most people get domains, they
10 don't take them off. You don't have to use them. Mr. Tripi
11 didn't say there was any activity with them. The fact that a
12 domain is out there, doesn't mean much.

13 So when you come down and you take the charges and
14 you take the exhibits, okay, you have a rusty gun in an armoire
15 with a hammer pull given to him by an uncle, bullets that
16 mostly don't fit, marijuana that anyone can buy anywhere, fake
17 cocaine. Now, there was other cocaine in the toilet or another
18 spot in the house. I would agree that that was real cocaine.
19 It wasn't distribution weight. And photos that don't show
20 anything relative to danger to the community. A risk of
21 flight. And his criminal convictions don't show that he is a
22 danger to the community or a risk of flight. And, again, you
23 can go right through his criminal history. He has never been
24 accused of selling a drug in his life. I mean, if you party at
25 his house and the federal government wants to say giving

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2 someone something is sale, it is.

3 MR. TRIPI: It is under the law. It is
4 distribution.

5 MR. EOANNOU: Yes, it's a stretch, strict
6 interpretation, yes. No felony sales. The felony would have
7 been dismissed if he completed. It was nine years ago. And
8 again his license couldn't be used for anything. At the end of
9 the day, what do you have? He is a loud mouth on social media,
10 he has a big mouth. Yells at the parking lot attendants, yells
11 at Loro Bond, yells at Joseph Hall. The only time he was
12 accused of assault, other than spitting of out the window, the
13 case was dismissed. Spin it any way you want, the case was
14 dismissed.

15 Now, they say the probation officer gives a whole
16 number of lists.

17 MAGISTRATE JUDGE ROEMER: Gives a whole --

18 MR. EOANNOU: A whole number of reasons why he
19 should be detained. Says one prior bench warrant.

20 MAGISTRATE JUDGE ROEMER: Let me get there. Okay.
21 Go ahead.

22 MR. EOANNOU: One prior bench warrant should not
23 be considered by this Court. It was a two-day bench warrant in
24 the Dugas matter where the dates had changed a bunch and that
25 would have been a law office failure on my part. I think it

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2 was the afternoon, he came in the morning. And we brought him
3 in the next day or two and that was it. And that is the
4 history of bench warrants. Again, no fault of Mr. Bella's.
5 And then the probation says extensive substance abuse history.
6 Well, he has struggled with addiction for years. I don't know
7 how extensive you would say because he has never been caught
8 with any weight of any type. It's always been small stuff. I
9 would say, yes, Judge, he has used drugs. Does use drugs,
10 admitted it to probation. No history of distribution.
11 Forty-seven years old, no reason to detain because someone uses
12 drugs.

13 Now, ties to the district. The probation officer
14 questioned him. How many people don't have elderly parents in
15 Florida? His parents are in Florida. His father is on a
16 ventilator and he goes down there and spends time with him. On
17 his acting cite he says "New York" and "LA." He wants to sound
18 like an actor. He wants to put it on there for acting. He has
19 been at the same house for over 15 years, at 224 Summer Street,
20 which I'll talk about in a minute. And then probation says
21 possession of travel documents. It's an enhanced license.
22 We'll hand it over. No problem. Not an issue. Use of
23 aliases. Yes. In 2004, he did use an alias. It's a fact to
24 be considered, it's not a fact of risk of flight because he
25 doesn't have the license. He doesn't use it. Questions

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2 regarding his mental health, that I don't understand. When he
3 went through the -- I believe it was one of the civil ones, I
4 think it might have been the federal, I don't know, I didn't
5 represent Mr. Bella on that. They took everything he owned and
6 he suffered from PTSD, and I think Dr. Anthony Turner
7 prescribed him Xanax Mr. Bella told me. Prior convictions for
8 obstruction of evidence, we know what that is. He threw a
9 dollar bill out the window. Conflicting information about the
10 residence, that I don't understand, unless it's the New York
11 City/LA thing because he has been at the 224 Summer house for
12 years and years.

13 Danger to the community. For what? Over social
14 media spats, spitting 20 something years ago, and assault you
15 were acquitted of?

16 Then probation says, prior convictions for similar
17 offenses. There is no distribution sales. There is none of
18 that. Never charged with weapons or drug sales. Again, Judge,
19 you go through it, it's the small time stuff that he was
20 convicted of when you look through his criminal history.
21 Again, alleged affiliations with organized crime and then they
22 put this general comment on that people in the collection
23 business, I didn't quite follow it, have a connection to
24 organized crime. They didn't say Joe Bella ran this agency at
25 this date and time and was connected with this individual in

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2 organized crime. What they said is an agent testified to the
3 general way things work, which is of no probative value here.
4 Extensive history of substance abuse. I would agree to that.
5 Nature and circumstances of the offense. Probation indicated,
6 okay, rusty gun and some personal use drugs. No bias in this
7 Criminal Complaint. Extensive history with fraud. Judge, I
8 would suggest to the Court that he has been fraudulent at times
9 in his life. I wasn't the lawyer. Can't speak that
10 knowledgeably, but I take the government at their word, and
11 because you're fraudulent or have been fraudulent in the past,
12 he has paid his price to society, he paid his civil penalties.
13 You could take that into consideration as a factor. But it's
14 not a factor for risk of flight, and I don't think it's a
15 factor of danger to the community. You could put an electronic
16 monitor on him and tell him he can't be on the internet and use
17 a computer like we do many times.

18 COVID-19 is uncharged conduct. As I understand
19 it, Mr. Bella was bringing tests into this state from Utah
20 through Florida, not a bad thing. I don't know anything about
21 what rates are exorbitant and what's going on in this day and
22 age, but I think the Court asked the best question, is it per
23 se illegal, and the government's theory is what he said was
24 fraudulent, but we're not charged, so we can't adequately
25 respond to that, but other than to say he was trying to bring

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2 tests into this area. I can tell you he was trying to contact
3 the governor's office.

4 MAGISTRATE JUDGE ROEMER: He was trying to contact
5 who?

6 MR. EOANNOU: The governor's office.

7 MAGISTRATE JUDGE ROEMER: The governor's office,
8 okay.

9 MR. EOANNOU: Yes, to the State of New York. So
10 at the end of the day, when we get done with all of this, five
11 year-mandatory minimum, how people have been released with a
12 five-year mandatory minimum. The 924(c) charge, I know it
13 fits, but that is, what it is, three pills, a handful of
14 mushrooms, dispensable marijuana, personal use cocaine. All
15 the rest, really, Judge, is de minimus. His criminal history
16 is de minimus. He does show up in court. Yes, he thinks he is
17 a tough guy on the internet, but he doesn't leave his house.
18 He is not a risk of flight. He is not a danger to the
19 community. But more importantly, we can put up bail,
20 significant bail, more than many other defendants, id many of
21 whom walked out of here and related to the Joe Bongiovanni
22 indictment because we heard that. 224 Summer Street, it has an
23 assessed value at \$429,000.

24 MAGISTRATE JUDGE ROEMER: Say that again.

25 MR. EOANNOU: \$429,000.

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2 MAGISTRATE JUDGE ROEMER: And this is his
3 premises?

4 MR. EOANNOU: Yes.

5 MAGISTRATE JUDGE ROEMER: He owns it outright?

6 MR. EOANNOU: Yes.

7 MAGISTRATE JUDGE ROEMER: No mortgage?

8 MR. EOANNOU: \$58,500 mortgage.

9 MAGISTRATE JUDGE ROEMER: You just said he has
10 been renting it for 15 years.

11 MR. EOANNOU: I misspoke. He doesn't rent it, he
12 owns it. I'm sorry, Judge. Thank you, Joe. His mother owns
13 it. I apologize, my apologies. His mother owns it. I spoke
14 to the mother for a half hour. She will sign. She will put up
15 that asset, \$370,000 in equity. Mr. Bella also has, according
16 to probation, some substantial income that he brings in. He
17 will sign a \$50,000 signature bond. He makes \$23,000 a month.

18 MAGISTRATE JUDGE ROEMER: Is that gross?

19 MR. EOANNOU: Like \$170,000.

20 MAGISTRATE JUDGE ROEMER: He cleared 170?

21 THE DEFENDANT: Gross, that was my gross profit.

22 MR. EOANNOU: His gross was 170,000 and he paid
23 taxes on.

24 MAGISTRATE JUDGE ROEMER: And his gross income,
25 that would include the taxes. You're saying, after they took

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2 taxes, he got \$170,000?

3 THE DEFENDANT: 120ish.

4 MAGISTRATE JUDGE ROEMER: 120.

5 MR. EOANNOU: He thinks he netted after that.

6 MAGISTRATE JUDGE ROEMER: \$23,000 a month is a lot
7 more.

8 MR. EOANNOU: This year he made more.

9 MAGISTRATE JUDGE ROEMER: And he makes this money
10 by owning?

11 MR. EOANNOU: It's a staffing company.

12 MAGISTRATE JUDGE ROEMER: Staffing companies, but
13 he owns several.

14 MR. EOANNOU: He staffs a number of nurses and
15 chef fields, St. Joseph Hospital. He has a number of medical
16 personnel that he works with.

17 MAGISTRATE JUDGE ROEMER: Well, what is this
18 buymycard.com.

19 MR. EOANNOU: That is where you can take -- you --
20 let's say you have a Home Depot card you can put it into what
21 looks like an ATM machine, and if it's worth 100, it will pay
22 you out \$60 for it. There is nothing illegal. And then you
23 sell it on the internet for \$80.

24 MAGISTRATE JUDGE ROEMER: So these machines, were
25 they located in public in different places?

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2 THE DEFENDANT: We were in Noco, but they sold and
3 now we have one more at Lucky's on Sycamore, I believe.

4 MR. EOANNOU: They were at Noco's and they were
5 sold.

6 MAGISTRATE JUDGE ROEMER: How much cash could he
7 put up?

8 MR. EOANNOU: How much cash could you put up?

9 THE DEFENDANT: They froze my accounts.

10 MR. EOANNOU: They froze his accounts, your Honor,
11 the government, but I presume.

12 THE DEFENDANT: Receivables are significant.

13 MAGISTRATE JUDGE ROEMER: I believe we could put
14 up 10,000.

15 PROBATION: Now, just to clear up the conflicting
16 information regarding the residence. He did report that he
17 resides in the carriage house of the residence and his mother
18 owns the carriage house as opposed to the actual residence,
19 which is listed in the Criminal Complaint. And it was verified
20 through his employer that his mother owns the actual residence
21 and he resides in the upper apartment and the lower is vacant.
22 Judge, he reported residing in the carriage house of the
23 residence.

24 MAGISTRATE JUDGE ROEMER: So this is all one
25 property. There is a residence?

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2 THE DEFENDANT: Separate parcels.

3 MR. EOANNOU: The only property owned is the
4 carriage house. Sometimes people --

5 MAGISTRATE JUDGE ROEMER: So the mother only owns
6 the carriage house?

7 MR. EOANNOU: Yes.

8 MAGISTRATE JUDGE ROEMER: And it has two
9 apartments, an upper or lower?

10 THE DEFENDANT: Three, worth about 450.

11 MR. EOANNOU: Judge, the Bail Reform Act requires
12 a release on bond if the combination of conditions can ensure
13 the return to court and is not a danger to the community. Law
14 favors pretrial release with the least restrictive conditions.
15 And I agree the 924 counts trigger the presumption. We're
16 countering that presumption with strong ties to the community.
17 Born here, been in the same place for 15 years or more. He has
18 business interests here. He staffs construction sites. He
19 staffs hospitals. Those people need to go to work. And quite
20 frankly, the government did freeze the bank account and some of
21 the paychecks, I'm told, are going to bounce. He has always
22 appeared in court. One time he missed for two days which was
23 my fault. He has sufficient assets that he'll put out in terms
24 of the signature bond that will ensure his return to court.

25 Now, Judge, I know we have these big hearings in

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2 here. But defendants similarly situated all of the time are
3 released on five-year mandatory minimums with not a lot of
4 drugs. All of this other stuff shouldn't carry the day. Now,
5 in front of Judge Arcara in the *Wills* case in 2015, it's almost
6 spot on, 924(c) charge prior criminal history mostly
7 misdemeanor drugs, three handguns, defaced, two used in a
8 shooting, digital scale, \$2500 found in the house, none in
9 Joe's, lied that his wife was dead, an unpaid fine and bench
10 warrant, more severe here gun and drug case, \$25,000 signature
11 bond and released on conditions of home confinement/drug
12 testing. We're willing to post \$450,000 for the same
13 conditions: Drug treatment, electronic monitoring. He is in
14 Niagara County. Now, BOP can say what it says, but we know
15 people are not being tested and we know that if you get
16 COVID-19 and the jail spreads, we know two C.O.s are
17 quarantined, another consideration, because we're in a pretrial
18 status, so we have sufficient assets to secure to return to
19 court. Not a danger to the community because of what we've
20 shown you. Electronic monitoring, mental health, if he needs
21 it, drug counseling, if he needs it. Can't go near the
22 internet and put up the family home and I think that will
23 protect the community and ensure his return to court.

24 MAGISTRATE JUDGE ROEMER: And did you say
25 electronic monitoring?

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2 MR. EOANNOU: Yes, home confinement.

3 MAGISTRATE JUDGE ROEMER: Mr. Tripi?

4 MR. TRIPI: Just a few things, Judge. I'm going
5 to stick with the lamp because the computer is not working.
6 Judge, you heard a lot of excuses made without any evidence to
7 support anything that was said. We provided you with a lot of
8 evidence and information backing up what we said here. Most of
9 Mr. Eoannou's proffer was prefaced with, at every point he made
10 with, "Mr. Bella tells me." I would submit that any time you
11 hear "Mr. Bella tells me," reject it. It has no weight as a
12 proffer. Now, he says he makes up more excuses, he says the
13 cocaine was cut. It tested positive, that is what happened.
14 He can say whatever he wants.

15 MAGISTRATE JUDGE ROEMER: This is the cocaine that
16 he says was fake you say it tested positive?

17 MR. TRIPI: Yes, that cocaine tested for positive
18 and he says that is not on a scale that was Mr. Bella's digital
19 scale that they used. That is consistent with drug dealing.
20 Users don't possess two ounces of cocaine and a scale. Users
21 buy their gram and go party on Saturday. This is 63 ounces
22 with the packages, 63 grams, about two ounces. So I guess he
23 is right, there will be a lab report, eventually. But we also
24 have sources that say he sells drugs, he sells drugs in bars
25 and nothing we found is inconsistent with that. In fact, it

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2 bolstered all of that. He has got a felony. I don't even know

3 how to characterize what I heard about his felony. I heard

4 what might have happened in an altered reality. He is a felon.

5 He didn't do what he was supposed to do. And Mr. Eoannou

6 talked about the one check box. Please move that up. Judge, I

7 think it's exhibit No. 10. Give me one second. Can I borrow

8 yours? I found it. It was stuck behind another piece of

9 paper. There are two boxes checked. The second box tells you

10 you're a felon. Having been found guilty or having entered a

11 plea of no contest, nolo contendere or guilty. Regardless of

12 adjudication, any person who is convicted of a prior, to this

13 day, of a felony is to participate in DNA testing. He is a

14 felon. And so then -- and there is no doubt about that. And

15 to further it, I called AUSA Felseta, who is now a prosecutor

16 in another district, in the Middle District, he said,

17 absolutely. Most people don't contest their pleas in Florida,

18 this is Mr. Felseta, they plead no contest and it's a

19 conviction. They charge felon in possession every day under

20 that. So he has two felony convictions. I have the paperwork

21 to tell you what the underlying facts of the cocaine felony and

22 the tampering of evidence. Mr. Eoannou provided an explanation

23 and I submit, if that is Mr. Bella's explanation, throw it in

24 the trash. Then there was additional information. You know,

25 you have to start adding up all of the excuses, and at some

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2 point you're trying to dance between rain drops, you know.

3 What exhibit are we up to? 26. All right so this
4 is what Mr. Eoannou was referencing. I'll mark it as exhibit
5 26. In Mr. Bella's phone, he had lists like a screen shot
6 telling the companies that hire felons. Now, sure, he has got
7 some companies that he claims he staffs people at. You didn't
8 hear about any that he staffed anyone at any of these
9 companies, but we would submit that, consistent with the felony
10 convictions, the screen shots show that he has companies that
11 hire felons, he knows damn well he is a felon.

12 MAGISTRATE JUDGE ROEMER: So you think he had that
13 list to know where he can go to work?

14 MR. TRIPI: That is the inference I'm asking the
15 Court to draw.

16 MAGISTRATE JUDGE ROEMER: As opposed to have these
17 for the staffing company, he wants to see if he had a felon
18 come, where he can place them?

19 MR. TRIPI: Yeah. I didn't hear that he staffed
20 anyone at Calvin Klein, Walgreens, Walmart. He owns a medical
21 staffing company. Philip Morris, these are national companies.
22 Most of them, if you look on this list, I'll hand this up for
23 the Court at the end of the hearing. It's a little bit blurry,
24 but that is how it was on the screen shot, your Honor.

25 And then there was some explanation for the

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2 gummies. There are a lot of gummies there. And all I know is
3 that people get caught on the bridge of Canada with two gummies
4 and they get charged with importing controlled substances.
5 It's not legal here. You can't go to the candy store and get
6 marijuana gummies. They are not dispensing them anywhere.
7 Marijuana is not sold legally here. And if he has a marijuana
8 card, I don't think they are handing him THC vaping oils and
9 all of the things he had, certainly not big packets of them.

10 MAGISTRATE JUDGE ROEMER: If you have a marijuana
11 card, what do you get?

12 MR. TRIPI: My understanding, you get treated with
13 like the oil. That is my understanding.

14 MAGISTRATE JUDGE ROEMER: They give you the oil?

15 MR. TRIPI: Yeah, for medical purposes. So the
16 proffer here, we could attribute that to Mr. Bella, he has
17 admitted essentially usury possession of a firearm. So based
18 upon that, he is admitting a federal crime. Throw everything
19 else, he is getting a prison sentence in BOP for that. And if
20 that is all, you know, that my dad has old guns, they still
21 shoot, and the fact that he had three different types of
22 ammunition doesn't mean that he had ammunition that filled the
23 shotgun, he should have had shotgun ammunition, but he had 223
24 rounds and 9 mm. And we have other information of him with
25 weapons. He can tell you all he wants that this is a prop.

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2 What movie is this in? What film or did he pose with a real
3 gun and put it on the internet to pretend to be an actor, the
4 more likely scenario. And the MDMA was in his house. The
5 initial HSI information was that he was using a boat to bring
6 MDMA in from Canada. And Mr. Eoannou proffers about the Dugas
7 assault, once we investigate the assault, like we're going to
8 do, and how that got dismissed and how that got handled, and
9 you saw who threw the punch on the video and who was on the
10 ground on the video, and it wasn't Mr. Bella, and you saw whose
11 face was injured. And I'm telling this Court that Mr. Bella
12 has a lot of law enforcement contacts, and we're going to
13 investigate how that turned out the way it did. But you can't
14 rule that photo, and you can't ignore the injuries and you
15 can't ignore that Mr. Dugas was not the one that threw the
16 first punch and Mr. Dugas was clearly the one that someone this
17 defendant was kicking at maybe that is how he got the boo boo
18 on his shin, which is what the police report said. The most
19 bizarre police report I've ever seen. The guy with the brush
20 on his shin is the victim and the guy at ECMC with the mangled
21 face is the offender. Took three weeks for the detective to
22 get it right. And Mr. Dugas had to get the video. So, we'll
23 see if it's as Mr. Eoannou claims, that they were in the middle
24 of trial, I don't know that, or if it's as Mr. Dugas claimed he
25 had to go out of town for business for two months and he told

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2 the DA that, and some judge in city court dismissed it. We'll
3 find out who that was, too. And we did freeze his account.
4 His Med-Cor account, so I don't know if he has any ability to
5 put up any cash right now. I tend to think it's doubtful. We
6 seized, we're waiting for returns on his Facebook. We're
7 waiting for analysis of his computers. We're waiting on all of
8 that information. We're going to have a couple more victims
9 here, that is our belief, because he has a long dedicated
10 history of fraud, violence and involvement in drugs. And just
11 because you use a little bit of drugs doesn't mean you're not a
12 drug dealer. And just because we didn't have someone make an
13 active buy from you, doesn't mean you're not going to prison
14 for dealing drugs. That is all I have, Judge.

15 MR. EOANNOU: Can I respond briefly?

16 MAGISTRATE JUDGE ROEMER: Sure.

17 MR. EOANNOU: I know that Mr. Tripi just chastised
18 me for giving explanations. We'll deal with facts. Case was
19 dismissed relative to Dugas. Fact. They can investigate
20 whoever. That is a fact.

21 MR. TRIPI: We are willing to call him. We have
22 the statements. We can hear him narrate the video yourself,
23 Judge.

24 MR. EOANNOU: We have -- they say he boats MDMA
25 from Canada. Conjecture. No arrest. Throw it out. That is

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2 what the hearing has been. We have Mr. Tripi saying there is
3 the box, the nolo contendere box, there are two boxes, yes,
4 "nolo contendere" and "adjudication withheld."

5 MAGISTRATE JUDGE ROEMER: And the two boxes,
6 checking them seems to be inconsistent.

7 MR. EOANNOU: No. Here is what happens. It's you
8 are a convicted felon until such time as you complete this
9 program.

10 MR. TRIPI: And he never did, so it was a felony.

11 MR. EOANNOU: We're not disputing that.

12 MAGISTRATE JUDGE ROEMER: I don't think he is
13 saying that he is not a felon.

14 MR. EOANNOU: I'm saying, look at the nature of
15 the felony and how it came about. And then Mr. Tripi says this
16 is a weapon. Maybe Mr. Tripi is wildly guessing, but he got it
17 off an acting site. So the more likely that weapon is a prop
18 or weapon, so the more likely is that is used as a prop or
19 weapon. But Mr. Tripi understands it may come from an acting
20 site and Mr. Tripi is saying, guns are illegal. They are. And
21 he has a medical marijuana card, and I think Mr. Tripi may be
22 right, I know you can buy gummies. I think Mr. Bella has it
23 for vape pens the other things in there. They are gummies.
24 They are gummies. They are sold in dispensaries all over the
25 place. We're going to detain someone now for gummies.

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2 MR. TRIPI: All over the place where?

3 MR. EOANNOU: You can go in a dispensary and buy
4 gummies.

5 MR. TRIPI: In Canada, in Oregon, in Colorado, not
6 in New York.

7 MR. EOANNOU: Okay. Then you can't buy them here.
8 They are gummies. I've never been in a dispensary. If Mr.
9 Tripi says that, I'll take him at his word. They are gummies,
10 they are not heroin or Fentanyl.

11 MAGISTRATE JUDGE ROEMER: When you say dispensary,
12 if, like, if you have a marijuana prescription card, do you
13 just get that at the pharmacy.

14 MR. EOANNOU: You go to a doctor and then you go
15 to a dispensary and they give you marijuana. There is one a
16 couple of blocks from here.

17 MAGISTRATE JUDGE ROEMER: But it's not a pharmacy?

18 MR. EOANNOU: It's a separate medical marijuana
19 facility.

20 MAGISTRATE JUDGE ROEMER: Okay. They don't sell
21 you gummies, they sell you actual marijuana.

22 MR. EOANNOU: No. Just two more things, Judge.

23 MAGISTRATE JUDGE ROEMER: Okay.

24 MR. EOANNOU: Again, we're not disputing he is a
25 felon. We're explaining his felony. Do you really think that

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2 a man that made \$170,000 last year and \$23,000 this month, do
3 you really think he is going to work at AT&T? Of course not.
4 It's illogical. He has a staffing company. He is making sure
5 that is where people get the funds from. That is my response
6 to Mr. Tripi.

7 MAGISTRATE JUDGE ROEMER: Okay. Anything else?

8 MR. EOANNOU: No, your Honor.

9 MAGISTRATE JUDGE ROEMER: I'm going to need about
10 fifteen minutes, so come back at quarter after 2.

11 MR. TRIPI: Will it be okay if we keep our
12 materials here?

13 MAGISTRATE JUDGE ROEMER: Yes, as far as I'm
14 concerned.

15 (Whereupon, there was a break in the proceeding.)

16 THE CLERK: Here in the matter of the United
17 States versus Joseph Bella, continued detention hearing.

18 MAGISTRATE JUDGE ROEMER: In determining whether
19 there are conditions or combinations of conditions that would
20 reasonably assure that the defendant's appearance is required
21 and the safety of any other person in the community, I've taken
22 into account the valuable information concerning the factors
23 enumerated in 18 U.S.C. Section 3142(g), mainly the nature and
24 circumstances of the offense charged, the weight of the
25 evidence against the defendant, the defendant's history and

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2 characteristics, and the nature and seriousness of the danger
3 to any person or the community that would be posed by the
4 defendant's release. Because I find probable cause to believe
5 that the defendant committed the offenses for which he is
6 charged for, 3142(e) the rebuttable presumption that no
7 condition or combination of conditions would reasonably assure
8 the defendant's appearance as required and safety of any other
9 person in the community, I find that the defendant has rebutted
10 that presumption and I'll order his release on conditions.

11 I do this based on a number of factors. This case
12 doesn't appear to involve any type of large-scale drug
13 activity. While the defendant does have a criminal history,
14 much of it is remote in time and doesn't appear to be very
15 serious in nature. While there is evidence of the defendant's
16 fraudulent activity regarding the COVID and debt collection and
17 there was the issue of the "dirty bomb" fraud, that isn't
18 currently in this case, so the Court finds that wouldn't
19 support detention. The Government's presented a lot of
20 evidence about defendant's associates, people he associates
21 with, that doesn't rise, just the association doesn't rise to
22 criminal activity. He is presumed innocent of these charges.
23 It is the Government's burden to prove that he should be
24 detained. And I find that burden has not been met and we'll
25 order his release on conditions. I'm going to order the

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2 following conditions. The defendant is to report to pretrial
3 services within 24 hours of release. I'm releasing him on a
4 \$350,000 bond secured by cash or property. Surrender any
5 passport or passport card to the Clerk of Court. He is to
6 surrender any other international travel documents to
7 appropriate authorities. It is my understanding he does have
8 an enhanced driver's license?

9 MR. EOANNOU: Correct.

10 MAGISTRATE JUDGE ROEMER: He'll have to take the
11 steps to turn that into DMV and get a regular driver's license.

12 MR. EOANNOU: Yes, your Honor.

13 MAGISTRATE JUDGE ROEMER: He is not to obtain a
14 passport or international travel document. His travel is
15 restricted to the Western District of New York, unless court
16 permission to granted to travel elsewhere. He is to remain at
17 a verifiable address as approved by pretrial services. Mr.
18 Eoannou, what will that address be?

19 MR. EOANNOU: 224 Summer, yes.

20 MAGISTRATE JUDGE ROEMER: The Summer address?

21 MR. EOANNOU: Yes, 224. He is to avoid all
22 contact, directly or indirectly, with any persons who are or
23 may become a victim or potential witness in the subject
24 investigation or prosecution. Mr. Tripi, anyone that you would
25 like to list now?

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2 MR. TRIPI: Well, I'd like him to stay away from
3 the people we proffered about.

4 MAGISTRATE JUDGE ROEMER: So he is going to have
5 to stay away from Mr. Dugas. Todd Dugas?

6 MR. TRIPI: Yes.

7 MAGISTRATE JUDGE ROEMER: And he is going to have
8 to stay away from Loro Bond. And he is going to have to stay
9 away from Jeffrey Hall. Anybody else, Mr. Tripi?

10 MR. TRIPI: Not at this time, your Honor.

11 MAGISTRATE JUDGE ROEMER: Okay. And that is to
12 have no contact with those people, Mr. Bella. Do you
13 understand that?

14 THE DEFENDANT: I so do.

15 MAGISTRATE JUDGE ROEMER: And when I say no
16 contact, I mean no contact.

17 THE DEFENDANT: I get you.

18 MAGISTRATE JUDGE ROEMER: No face-to-face contact,
19 no telephone contact, no social media contact, and no texting,
20 no passing a message to a third person. If you violate that,
21 Mr. Bella, you're going to be back here and you will be
22 detained pending trial. Do you understand that, sir?

23 THE DEFENDANT: I do, Judge. I will not violate
24 that.

25 MR. TRIPI: I ask that he be ordered to stay away

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2 from Mr. BiFulco as well.

3 MAGISTRATE JUDGE ROEMER: Where is Mr. BiFulco?

4 THE DEFENDANT: I don't know.

5 MAGISTRATE JUDGE ROEMER: Okay. You're to have no
6 contact with Mr. BiFulco. Do you understand that, sir?

7 THE DEFENDANT: I understand, Judge.

8 MAGISTRATE JUDGE ROEMER: Did you want to also
9 list Mr. Bongiovanni?

10 MR. TRIPI: Yes, Judge.

11 MAGISTRATE JUDGE ROEMER: And you're to have no
12 contact with Mr. Bongiovanni.

13 THE DEFENDANT: I don't know him, Judge.

14 MAGISTRATE JUDGE ROEMER: He is to submit to a
15 mental health evaluation and/or treatment as approved by
16 pretrial services. He is to refrain from possessing a firearm,
17 destructive device or other dangerous weapon. He should
18 refrain from any use of alcohol. He is to refrain from any use
19 or possession of a narcotic drug or other controlled substance.
20 He is to submit to any mental health testing required by the
21 Pretrial Services Report or the supervising officer for
22 determining whether the defendant is using a prohibited
23 substance. He is to participate in a program of inpatient or
24 outpatient substance abuse therapy and counseling approved by
25 pretrial services. He is to refrain from obstructing or

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2 attempting to obstruct or tamper in any fashion with the
3 efficiency or accuracy of any prohibited substance testing or
4 electronic monitoring, which are required as conditions of
5 release. He is to participate in a location restriction
6 program and abide by all of the restrictions of that program.
7 He will be under home incarceration. And he will be restricted
8 to his residence at all times except for medical needs or
9 treatment, religious services and court appearances preapproved
10 by the pretrial services officer. He is to report within 72
11 hours to pretrial services any contact with any law enforcement
12 personnel, including, but not limited to, arrest, questioning
13 or traffic stop. The defendant is prohibited from being
14 involved in any business or activities related to the COVID
15 virus. Is that clear enough, Mr. Eoannou?

16 MR. EOANNOU: Yes. I'll wait until your done.

17 MAGISTRATE JUDGE ROEMER: Let me finish. The
18 defendant will not be involved in any debt collection business
19 or activities. The defendant is to abide by any orders of
20 protection and he is to resolve any local or state court cases
21 that are pending. The defendant shall participate in the
22 computer internet monitoring program administered by the U.S.
23 Probation office. The defendant must provide the U.S.
24 Probation office advance notification of any computers,
25 automated services or connected devices. The U.S. Probation

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2 office is authorized to install any application as necessary on
3 computers or connected devices owned or operated by the
4 defendant. The defendant may be required to pay the cost of
5 the monitoring services at a monthly rate provided by the U.S.
6 Probation office. The U.S. Probation office shall randomly
7 monitor the defendant's computers, connected devices and/or
8 storage media. The defendant shall consent to and cooperate
9 with unannounced examinations of any computer equipment used or
10 owned by the defendant, including, but not limited to
11 retrieving and copying of all data from the computers,
12 connected devices, storage media and any internal or external
13 peripherals, which may involve removal of such equipment for
14 the purpose of conducting a more thorough inspection.

15 Mr. Tripi, is there anything you wanted to add?

16 MR. TRIPI: No, your Honor.

17 MAGISTRATE JUDGE ROEMER: Mr. Eoannou?

18 MR. EOANNOU: Judge, it's just that his mother
19 resides -- the residence she resides is just north of Tampa.
20 She should sign the documents where she would be posting the
21 property. I've done it before where they go to the court where
22 they reside.

23 MAGISTRATE JUDGE ROEMER: She can go to the, I
24 think, the Middle District of Florida in Tampa and we'll give a
25 call down there and let them know she is coming.

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2 MR. EOANNOU: Thank you, Judge.

3 MAGISTRATE JUDGE ROEMER: Probation has asked for
4 a home inspection so the defendant won't be released until
5 there is a home inspection done. Do you know if there is a
6 land line in the residence, your Honor?

7 MR. EOANNOU: There is not.

8 MAGISTRATE JUDGE ROEMER: You'll have to have one
9 installed. That will have to be in place before the home
10 inspection is done.

11 MR. EOANNOU: Thank you, Judge.

12 MAGISTRATE JUDGE ROEMER: Any other questions?

13 MR. TRIPI: No, Judge.

14 MAGISTRATE JUDGE ROEMER: Mr. Tripi, Mr. Eoannou,
15 remind me, did we resolve preliminary hearing?

16 MR. TRIPI: We did not.

17 MR. EOANNOU: We'll waive the preliminary hearing.

18 MAGISTRATE JUDGE ROEMER: We'll waive the
19 preliminary hearing and set a Rule 48(b) date. How far out?

20 MR. TRIPI: Yes.

21 MAGISTRATE JUDGE ROEMER: Ninety days I usually
22 do.

23 MR. TRIPI: Ninety days is fine.

24 THE CLERK: July 27th at 10:30.

25 MR. TRIPI: Did you say 10:30?

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2 THE CLERK: Yes, July 27th at 10:30.

3 MAGISTRATE JUDGE ROEMER: Mr. Eoannou, is that
4 okay?

5 MR. EOANNOU: Yes.

6 MAGISTRATE JUDGE ROEMER: Mr. Tripi, on speedy
7 trial.

8 MR. TRIPI: Yes, your Honor. We ask from the time
9 from today's date to the Rule 48(b) deadline to July 27th,
10 2020, be excluded from the Speedy Trial Act clock in the
11 interest of justice and in the interest of effective assistance
12 of counsel. During that intervening time period, the
13 government will provide counsel for the defendant with
14 voluntary discovery. It's anticipated that discovery be beyond
15 the discovery that was provided in the context of this
16 detention hearing. Additionally, we'll be working through
17 going through additional search warrant materials, imaging
18 computers and returning them to the defendant as we're able to
19 do so. That will enable the defendant and his counsel to have
20 necessary conversations with regard to pretrial negotiations,
21 strategy and other defense determinations that need to be made.
22 We believe that all of that outweighs both the public and the
23 defendant's interest in a more speedy trial or indictment in
24 this matter. And if we could resolve the case pre-indictment,
25 it will enure to the defendant's benefit and save public

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resources as well. We ask the time be excluded for those reasons.

MAGISTRATE JUDGE ROEMER: Mr. Eoannou?

MR. EOANNOU: We join.

MAGISTRATE JUDGE ROEMER: For reasons stated by the government, I find that the request for a continuance outweigh the interest of the public and the defendant in a speedy trial. So the time from today to July 27, 2020 will be excluded from the speedy trial clock.

Before you take him, Marshal, we have to have him sign his conditions of release.

MR. TRIPI: Judge, just one last thing for record purposes, this detention hearing had exhibits 1 through 22 admitted as well as 24 through 26. Government Exhibit 23 was accidentally slash intentionally left blank, and I believe there was one Defense Exhibit.

MR. EOANNOU: Defendant's A.

MR. TRIPI: Defendant's A.

MAGISTRATE JUDGE ROEMER: Thank you for completing the record. Let me hand this down. This is his conditions of release.

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter.

S/ Karen J. Clark, RPR

Official Court Reporter