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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Criminal No. 07MJ0603-AJB
)	
Plaintiff,)	
v.)	DETENTION ORDER
)	
JOHN ALAN CARMAN)	
)	
Defendant.)	
_____)	

A. **Order For Detention**

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

B. **Statement of Reasons For the Detention**

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

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

 X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person and the community.

C. **Findings of Fact**

The Court’s findings are based on the evidence which was presented in Court and that which was

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1 contained in the Pretrial Services Report, and includes the following:

2 (1) Nature and circumstances of the offense charged:

3 (a) The crime:

4 Conspiracy to kill, kidnap or maim persons in a foreign country.

5 is a serious crime and carries a maximum penalty of Life in prison

6 (b) The offense is a crime of violence.

7 (c) The offense involves a narcotic drug.

8 (d) The offense involves a large amount of controlled substances, to wit:

9 _____

10 (2) The weight of the evidence against the defendant is high but is the least significant
11 factor.

12 (3) The history and characteristics of the defendant including:

13 (a) General Factors:

14 The defendant appears to have a mental condition which may affect
15 whether the defendant will appear.

16 The defendant has no family ties in the area.

17 The defendant has no steady employment.

18 The defendant has no substantial financial resources or bond proposals.

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

20 The defendant does not have any significant community ties.

21 Past conduct of the defendant: nature of the offense, apparent planning
22 and expertise in law enforcement matters.

23 The defendant has a history relating to drug abuse.

24 The defendant has a history relating to alcohol abuse.

25 The defendant has a significant prior criminal record.

26 The defendant has a prior record of failure to appear at court proceed-

27 ings.

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_____ The defendant has a prior record of probation, parole or supervised release violations and/or revocations.

_____ (b) At the time of the current arrest, the defendant was on:

_____ Probation

_____ Parole

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

_____ (c) Other Factors:

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

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

_____ Other: _____

X (4) The nature and seriousness of the danger posed by the defendant’s release are as follows: nature of the offense and facts proffered re means and motive to accomplish crime. Surveillance of the intended victim and her family in connection with a “spring break” kidnap scheme. Scheme corroborated by recorded phone calls and copies of emails.

X (5) Rebuttable Presumptions

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

X (a) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other person and the community because the Court finds that the crime involves:

X (A) A crime of violence: 18 USC956(a); or

_____ (B) An offense for which the maximum penalty is life imprisonment or death; or

1 _____ (C) A controlled substance violation which has a maximum penalty of 10
2 years or more; or,

3 _____ (D) A felony after the defendant had been convicted of two or more prior
4 offenses described in (A) through (C) above, and the defendant has a prior convic-
5 tion for one of the crimes mentioned in (A) through (C) above which is less than
6 five years old and which was committed while the defendant was on pretrial
7 release.

8 X (b) That no condition or combination of conditions will reasonably assure the
9 appearance of the defendant as required and the safety of the community because the
10 Court finds that there is probable cause to believe:

11 _____ (A) That the defendant has committed a controlled substance violation
12 which has a maximum penalty of 10 years or more.

13 _____ (B) That the defendant has committed an offense under 18 U.S.C. §924(c) (uses
14 or carries a firearm during and in relation to any crime of violence, including a crime of
15 violence, which provides for an enhanced punishment if committed by the use of a deadly
16 or dangerous weapon or device).

17 X (C) Defendant is charged with 18 USC 956(a), Conspiracy to Kidnap a person in
18 a Foreign Country which raises a rebuttable presumption for detention as a risk of flight,
19 which defendant did not rebut..

20 D. **Additional Directives**

21 IT IS ORDERED that the defendant be committed to the custody of the Attorney General or his
22 designated representative for confinement in a corrections facility separate, to the extent practicable,
23 from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall
24 be afforded a reasonable opportunity for private consultation with his counsel.

25 While in custody, on order of a court of the United States or on request of an attorney for the
26 government, the person in charge of the corrections facility shall deliver the defendant to a United States

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2 Marshal for the purpose of an appearance in connection with a court proceeding or any other appearance
3 stipulated to by defense and Government counsel.

4 IT IS SO ORDERED.

5 DATED: March 29, 2007

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8 Hon. Anthony J. Battaglia
9 U.S. Magistrate Judge
10 United States District Court
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