

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN / SOUTHERN DIVISION

UNITED STATES OF AMERICA,
PLAINTIFF,

FILED
MAY 22 2020

V.

CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

NATHANIEL COTTON,
DEFENDANT.

DOCKET NO. 18-CR-20315

HONORABLE JUDITH LEVY

DEFENDANT'S EMERGENCY MOTION FOR IMMEDIATE RELEASE ON BOND

DATED: April 18, 2020

Defendant's address:

Nathaniel Cotton

Inmate number 39106-038

In pro se
Milan Correctional Facility
4004 Arkona Road
Milan, MI 48160

Here comes Defendant Nathaniel Cotton, in pro se, moves this Court pursuant to 18 USC § 3145(b), to issue an order providing for his immediate release on bond for the following reasons:

1) Defendant Cotton is being detained in the Milan Correctional Facility, since August 13, 2018.

2) Defendant is being held under an indictment for the following charges that triggered a parole violation:

~~922 Felon in Possession of Firearm~~
846 Drug attempt and Conspiracy
851 Proceeds to Establish Prior Conviction
841 Drug Trafficking

3) Defendant initially waived his right to a bond hearing due to revocation of parole status. Defendant now motions this Court, as authorized pursuant to 18 USC § 3 that "the district court has jurisdiction to reopen bail issue on its own motion" under USC 3142. See United States v. Travis, 129 F.3d 1266, @ *1 (6th Cir. Oct. 28, 1997)

4) This Court is permitted to temporarily release an individual in custody "to the extent that the judicial officer determines such release to be necessary for the preparation of person's defense or for another reason." 18 USC § 3142(i)(4) In the instant case, Defendant maintains that detainees, like convicts, are also entitled to the right to access to the courts.

5) Persons awaiting trial have a Sixth Amendment right to assistance of counsel and an unimpeded criminal defense. See Benjamin v. Fraser, 264 F.3d 175, 184-88 (2d Cir. 2001) This Defendant needs more direct contact with attorney and others

related to his case, including but not exclusive to, investigators, witnesses and material evidence not readily accessible at this unprecedented time.

6) The Eighth Amendment and Due Process Clause, "the applicable standard is the same so decisional law involving prison inmates applies equally to cases involving arrestees or pre-trial detainees." Cottrell v Caldwell, 85 F.3d 1480, 1490 (11th Cir. 1996)

Under the Due Process Clause, pre-trial detainees cannot be punished. See Bell v Wolfish, 441 U.S. 520, 535, 99 S.Ct. 1861 (1979) accord Block v. Rutherford, 468 U.S. 576, 585-86, 104 S.Ct. 3227 (1984). Parole violators, in pre-hearing stage, also are afforded Due Process without punishment. Detainees and parole violators claims are governed under the Eighth Amendment.

Possible dismissal or acquittal of criminal charges removes all factual basis from claim that a parole violation was even committed.

7) With respect to conditions of confinement, the Supreme Court said in Bell that living conditions constitute punishment of detainees if they inflict "genuine privations and hardship over an extended period of time. Bell, 441 U.S. @ 542. Undue court delays are a form of punishment when they are for extraordinary lengths of time. At this present time, no one can predict how long it will be before backlogs and delays will be adjudicated. Oppressive conditions may constitute punishment even if imposed for short periods of time if it "shocks the conscience".

8) Defendant sets forth the following compelling reasons for his immediate release:

* The danger of CO-VID 19 pandemic especially those like Cotton who are in an institutional environment and has chronic health issues (high blood pressure and diabetes). This Defendant also falls into the age group, ages 18 to 40 years old, of the U.S. population at highest risk of infection of the deadly virus.

* Defendant is not a flight risk and has complied with previous court appearances and bond conditions while out on release. With very restricted movement in the community only adds to the assurance of compliance of attendance.

* Defendant has collateral in the form of real estate and cash surety that can be secured through family support. Defendant will reimburse the costs of supervision including electronic monitoring and probation fees as this Court deems necessary.

* The charges and parole violation charges are of a non-violent nature. Cotton does not pose a threat to the community at large or to the administration of justice.

* Defendant has not posed any problems while in custody. Prior to his arrest, Cotton was gainfully employed as a painter for

Michigan Construction Team & Sheffield Painting/Manager Mr. Vince @ (313) 656-8773. This employer will allow Cotton to return to his job upon release to assist in supporting 1 minor children and contribute financially to his building legal expenses.

9) Defendant Cotton, a life-long Michigan resident, can be released to:

Mother - Carrie Cotton, 12510 Riad, Det., MI 48224 or

alternatively, Father - Nathaniel Cotton, Sr., 18603 Eureka,
Detroit, MI 48234

10) Defendant will comply with all pre-trial conditions as set
forth by this Court including daily and/or weekly contact with
the Probation Department.

For these ominous and justified reasons, Defendant, Nathaniel
Cotton, prays this Court will enter an order providing for his
immediate release on conditions stipulated according to this
Court's discretion.

PROOF OF SERVICE

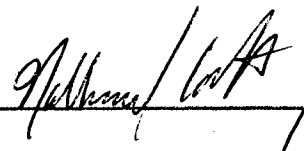
This motion was also served, via U.S. first-class mail, upon U.S
Attorney General's office @

211 W. Fort Street Suite 2001 Detroit MI 48226

I certify that the information in this motion is true and factual
to the best of my knowledge and ability.

Nathaniel Cotton Nathaniel Cotton, in pro se

Dated: April 10, 2020

Power of Attorney for signature: 

Dated: 04/11/20

Enclosure(s)

cc: file, Attorney General

Nathaniel Cotton 39106-030
Milan Correctional Facility
4004 Arkona Road
Milan, MI, 48160

Nyost, Mark

United State Eastern
District Court
231 W. Lafayette Blvd
Detroit, Michigan 48226

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MAY 27 2020
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U.S. DISTRICT COURT

Atten Honorable
Judge Judith Levy