

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:23CR18
	§	Judge Mazzant
ALI DANIAL HEMANI	§	

**UNITED STATES' BRIEF IN SUPPORT OF PRETRIAL DETENTION**

The United States files this brief in support of its motion to detain defendant Ali Danial Hemani.

This is a unique criminal firearm case. Unlike most defendants indicted on firearm charges, this defendant not only abuses drugs and possesses a firearm, he also has strong links and frequent travel to countries that do not have diplomatic relations with the United States [The Islamic Republic of Iran (Iran) and the Republic of Iraq (Iraq)]; is a dual citizen in the Islamic Republic of Pakistan (Pakistan) and the United States; has family members living in Iran and Pakistan and his mother (with whom he lives) wishes her son to be a martyr. Drugs, firearms, and martyrdom are a dangerous combination. As shown below, a holistic analysis of the 3142(g) factors, coupled with the evidence to be presented at the detention hearing, will show by a preponderance of evidence that this defendant is a flight risk and a danger to the community.

**LEGAL STANDARD GOVERNING PRETRIAL DETENTION**

The Bail Reform Act, 18 U.S.C. § 3142, governs the detention of defendants. The government may move for detention under § 3142(f)(1) or § 3142(f)(2).

**Under (f)(1)**, the government may seek detention in cases where the defendant has been charged with certain crimes, including: 1) a crime of violence which carries a maximum term of ten years or more; 2) an offense which carries a maximum sentence of life imprisonment or death; 3) serious drug offenses; 4) felonies committed by certain repeat offenders; and 5) *felonies that are not otherwise crimes of violence that involve a minor victim or the possession or use of a firearm, destructive device, or any other dangerous weapon* 18 U.S.C. § 3142(f)(1).

**Under (f)(2)**, the government may seek detention in a case that involves either “*A) serious risk that [the defendant] will flee*; or B) a serious risk that [the defendant] will obstruct or attempt to obstruct justice....” 18 U.S.C. § 3142(f)(2). Although a motion under these grounds does not expressly address “danger to the community,” evidence pertaining to the safety of the community is still relevant given that the Court may still order detention if it finds that “no condition or combination of conditions will reasonably assure the appearance of the person as required and *the safety of any other person and the community.*” 18 U.S.C. § 3142(e)(1) (emphasis added).

A judicial officer may order a defendant detained pending trial upon a finding that the government has shown by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the person. *United States v. McConnell*, 842 F.2d 105 (5th Cir. 1988); *United States v. Fortna*, 769 F.2d 243, 250 (5th Cir. 1985). However, the government’s burden of proof changes to clear and

convincing in a case where the government argues the defendant should be detained because he or she is a danger to the community. 18 U.S.C. §3142(f)(2)(B).

The following factors guide the Court's analysis regarding flight risk and community danger: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence; (3) the defendant's history and characteristics, including, among other things, his family ties, length of residence in the community, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release. 18 U.S.C. §3142(g).

Here, the government's makes its motion for detention under (f)(1) and (f)(2). The motion is made under (f)(1) because the offense involves the possession of a firearm and under (f)(2) because the defendant is a serious flight risk. Additionally, there is concerning evidence that the defendant presents a danger to the community.

### **THE SECTION 3142(G) FACTORS SHOW FLIGHT RISK AND DANGER TO THE COMMUNITY**

#### **The Nature and Circumstances of the Crime**

The nature and circumstances of this crime deviate from the vast majority of firearm cases. This defendant lives in the Eastern District of Texas with his parents. It is in their shared home that the defendant possessed a firearm on August 3, 2022. On July 12, 2021, the defendant's mother shared the following post on Facebook:

I wish Muslims would *sacrifice their own sons* like Ismail while following the Sunnah of Ibrahim, then Allah would have given them the blessing of leadership of religion and the world and the emergence of Imam of the Mostazafin. (emphasis added).

The defendant's family has connections to a cause that supports violent attacks on the United States government and, clearly, his mother wishes for him to be a martyr, a sacrifice for the cause. This cause has hundreds of supporters in areas where the defendant frequently travels. Solidarity with this group requires secrecy, demands loyalty, and uses violence.

While the defendant's mother supports martyrdom for her son in support of a cause advocating violence against the United States government, the defendant abuses controlled substances and possesses a firearm. This presents a dangerous combination.

### **Weight of the Evidence**

The evidence illustrating the defendant's criminal conduct in this case conclusive and clear. Law enforcement has collected the following evidence against the defendant:

- October 1, 2021: a download of the defendant's phone revealed he abuses controlled substances;
- August 3, 2022: a search of the defendant's house revealed he possessed cocaine, marijuana and multiple firearms. A Glock handgun registered to the defendant was located in his bedroom in the house he shares with his parents;
- The defendant confessed to law enforcement that he purchased the 47 grams of cocaine found in his mother's room three to four months ago. He further admitted that he purchased cocaine one to two times a year. He said he smoked marijuana every other day and kept a quarter ounce of marijuana in his car or hidden at home. He confessed that he purchased large quantities of drugs which he would split with his friends.

## **The Defendant's History and Characteristics:**

The defendant's history and characteristics favor detention.

**International Contacts.** First, the defendant has significant international contacts. He and his family have strong links and frequent travel to countries that do not have diplomatic relations with the United States [The Islamic Republic of Iran (Iran) and the Republic of Iraq (Iraq)]. The defendant has family members who live in Iran and Pakistan. The defendant's brother Mohammad Hemani resides in Qum, Iran and the defendant reports weekly contact with him. Further, the defendant is a dual citizen in the Islamic Republic of Pakistan (Pakistan) and the United States. If the defendant were to flee to Iran or Iraq, he could not be extradited.

**Means to Flee.** Second, the defendant has the means to flee. He is well financed by the job he reports to U.S. Probation as documented in the Pretrial Services Report. He reports he earns \$5,000 a month.

**No Criminal History.** Third, while the defense may argue otherwise, the defendant's sparse criminal history makes him a perfect fit for the criminal activity that his mother advocates in her shared Facebook post. Indeed, the ideology his mother publicly supports needs individuals who can fit into the community and go unnoticed by law enforcement.

**Drug abuse and lies to the Court.** Fourth, the defendant admitted to law enforcement that he used cocaine and marijuana (he said he smokes every other day). Further, the download of his phone had a conversation where he talked about abusing

promethazine. The defendant said he purchased five bottles and said “shits too addicting” and “idk if I want to stop.” While his drug abuse is concerning enough when the Court is considering bond, it is also significant that the defendant did not tell the U.S. Probation Officer of his every other day use of marijuana or his use of promethazine. He said he last used alcohol and cocaine one year ago.

His history and characteristics are concerning and weigh in favor of detention.

### **Nature and Seriousness of the Ongoing Danger**

Given the expansive network of the organization(s) the defendant’s mother supports, the international reach of the defendant’s family and the defendant’s abuse of drugs and possession of firearms, releasing the defendant from custody is very concerning. Again, the defendant’s mother, with whom he lives in Lewisville, Texas, has publicly stated she wishes her sons to be martyrs and has made public, recorded statements while standing before a large depiction of Qasem Soleimani.<sup>1</sup>

### **CONCLUSION**

For the reasons discussed above this Court can make a finding by a preponderance of evidence that this defendant poses a flight risk. The Court also has clear and convincing

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<sup>1</sup> Qasem Soleimani was an Iranian military officer who served in the Islamic Revolutionary Guard Corps until he was killed in a U.S. drone strike near Baghdad International Airport on January 3, 2020. From 1998 until his death on January 3, 2020, he was the commander of the Quds force, a division primarily responsible for extraterritorial and clandestine military operations. He was considered to be the second-most powerful person in Iran. He has been praised as a martyr by the speaker of the Iranian parliament and others. After his death, his successor swore revenge and said: “God the Almighty has promised to get his revenge, and God is the main avenger.” His funeral was said to be the second largest after that of Ayatolla Khomeini. (emphasis added) “Qasem Soleimani.” Wikipedia, the Free Encyclopedia, Wikimedia foundation, January 28, 2023, en.m.wikipedia.org.

evidence that this defendant would pose an ongoing danger to the community. As such, the Court should order the defendant detained pending trial.

**FILING UNDER SEAL**

The United States has filed this brief under seal. The United States submits that this brief falls within the categories of documents authorized to be routinely sealed under Local Rule 49(c) as an “addenda or objection” relating to the defendant’s presentence investigation reports. L.R. 49(c)(3). To the extent it does not fall in that category, the United States still requests that the brief be sealed because it contains law enforcement sensitive information.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

This is to certify that on February 16, 2023, this document was filed with the Clerk using the CM/ECF filing system. This document will be delivered to counsel for defendants via electronic mail.

/s/ \_\_\_\_\_  
MAUREEN SMITH