

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Hon. Nancy G. Edmunds

Case No. 10-20403

v.

BOBBY W. FERGUSON,

Defendant.

**DEFENDANT BOBBY W. FERGUSON'S REPLY TO THE GOVERNMENT'S
RESPONSE TO CONSOLIDATED MOTION AND MEMORANDUM IN SUPPORT
FOR A HEARING TO ALLOW THE DEFENDANT BOBBY W. FERGUSON TO BE
RELEASED ON BOND PENDING SENTENCING**

Mr. Ferguson's Motion for Bond Pending Sentencing is not one asking for reconsideration, and the Government knows as much. Indeed, if the Government actually believed that the Motion was for reconsideration they could not respond without leave of the Court (which was not granted, or even sought, in this case). See LR 7.1(g)(2). Thus, Mr. Ferguson's motion must be addressed on the merits.

The issue of bond can be visited at any point during the pendency of a matter, particularly in light of a change in relevant circumstances. There is new evidence for the Court to consider that was not available at the time of the detention hearing: the pledges of homes as surety.¹ The Government spends much time recounting what is already part of the record regarding bond; the Court has already considered those arguments when it referred to this decision as a "close call."

¹The documents obtained regarding home ownership are attached to this Reply. The deeds regarding Mrs. Ferguson's Michigan home (**Exhibit A**), both McMillions' homes (**Exhibits B and C**), and Mr. Nix's home (**Exhibit D**) are included.

The Government now argues that property is “disfavored” as collateral for bond, and that Mr. Ferguson obtained a fake license from the Secretary of State, making him a flight risk.

LCrR 46.1 does not say that property is disfavored as a guarantee for bond, rather, only that a district court judge must approve its use as surety in writing. This, of course, makes sense. The district court must ensure that the proper paperwork is in order to ensure that those pledging properties as surety legitimately own them. The language in the court rule that the district court must sign off on the use does not indicate a negative view of its use as surety; rather, it merely recognizes that using property as surety requires additional steps that should be overseen by a district court judge.

With respect to the license issue, there is no evidence that anyone has ever attempted to use the license for any purpose. In addition, Mr. Ferguson’s passport has been seized, and the State Department put a stop notice on his travel. As pre-trial services noted, Mr. Ferguson has always complied with his bond requirements vis-à-vis travel (even while this apparent license had been issued). There is nothing about this license that suggests that Mr. Ferguson would not comply with his bond conditions, or any other order of this Court.

Additionally, this Court should consider that Mr. Ferguson must obtain new counsel for the upcoming retrial of the GardenView case. GardenView is a highly complicated case that requires extensive preparation for trial. Mr. Ferguson needs to identify and communicate with potential new counsel, and as currently situated, cannot do so in a private and confidential manner, whether by phone or email. This factor also cuts against Mr. Ferguson’s likelihood of flight since he intends on vigorously contesting the allegations like he did in the first trial, and his finding new counsel is absolutely essential to that end. Moreover, his search for new counsel is further complicated by the fact that so many experienced local attorneys have conflicts due to

current and prior representation of Government witnesses in the GardenView and *USA v. Kilpatrick* matters.

Given the pledges of homes as surety, in addition to the need for Mr. Ferguson to obtain new counsel for the GardenView matter, this Court should release Mr. Ferguson on bond pending sentencing.

WHEREFORE, the Defendant, Bobby Ferguson, respectfully requests that this Honorable Court release him on bond pending sentencing.

Respectfully submitted,

s/ Gerald K. Evelyn
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Dated: April 3, 2013

<i>PROOF OF SERVICE</i>		
<i>The undersigned certifies that a copy of the foregoing instrument was served upon all parties to the above cause and to each of the attorneys of record herein at their respective addresses as directed on the pleading(s) of April 3, 2013.</i>		
Delivery By:		
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Fax	<input checked="" type="checkbox"/> E-File (ECF)
<input type="checkbox"/> Hand-Delivered (Court)	<input type="checkbox"/> Overnight Express	
<input type="checkbox"/> Federal Express	<input type="checkbox"/> E-mail	<input type="checkbox"/> Other
Signature: <u>s/ Megan E. Lang</u> Megan E. Lang		