

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-40744
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 31, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

THEODORE ROBERT WRIGHT, III,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:17-CR-40-1

Before WIENER, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Theodore Robert Wright, III, appeals the district court's order of detention pending appeal. Wright was charged with wire fraud and conspiracy to commit wire fraud, arson and conspiracy to commit arson, and use of fire to commit a felony. He faces a mandatory minimum 15 year sentence if convicted. "Absent an error of law," we will uphold a district court's pretrial detention order "if it is supported by the proceedings below," a deferential standard of

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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review that this court equates to an abuse of discretion standard. *United States v. Rueben*, 974 F.2d 580, 586 (5th Cir. 1992) (internal quotation marks and citation omitted).

Assuming without deciding that the rebuttable presumption of detention provided for in 18 U.S.C. § 3142(e)(3)(C) does not apply to the present case, the record supports the district court's alternative finding that the Government demonstrated to a preponderance of the evidence that no condition or combination of conditions could reasonably assure Wright's presence at trial. *See* § 3142; *Rueben*, 974 F.2d at 586. The court acknowledged that Wright's wife is an attorney licensed in California and that they have a two-year-old child. The court determined, however, that his family frequently travel with him, are familiar with living overseas, and that many other factors established to a preponderance of evidence the Wright was a flight risk. *See United States v. Fortna*, 769 F.2d 243, 250 (5th Cir. 1985) (holding that preponderance of the evidence standard is applicable for risk of flight determination). Among them, the court considered that Wright is an experienced pilot with access to multiple private planes that he has repeatedly flown to foreign countries without filing flight plans or proceeding through customs. Additionally, Wright has access to significant liquid assets, evidenced in part by the \$70,000 in cash found on his person when he was arrested. Wright also has established business ties, by his own admission, to foreign countries that do not extradite to the United States. The court also considered, among other factors, his apparent attempts to evade arrest, the mobility of his business, the fact that he moves around frequently and does not stay in a single residence for extended periods, and his involvement with a foreign drug cartel. *See United States v. Fortna*, 769 F.2d 243, 250 (5th Cir. 1985) (holding that preponderance of the evidence standard

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is applicable for risk of flight determination). Accordingly, the pretrial detention order is **AFFIRMED**.