UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-3037
(No. 17-CR-201-ABJ)

UNITED STATES OF AMERICA, Appellee,

v.

PAUL J. MANAFORT, JR., Appellant.

GOVERNMENT'S OPPOSITION TO APPELLANT'S MOTION FOR RELEASE PENDING APPEAL

The United States of America, by and through Special Counsel Robert S. Mueller, III, files this opposition to the motion of Paul J. Manafort, Jr. (Manafort) for release pending appeal of the district court's June 15, 2018 detention order ("Order"). *See* Dkt. 328.[1] The court entered its Order after a grand jury returned a superseding indictment charging Manafort with attempting and conspiring to tamper with potential witnesses, in violation of 18 U.S.C. §§ 1512(b)(1) and (k), based on acts he committed while he was on pretrial release. Dkt. 318 ¶¶ 48-51.

Manafort's motion should be denied. He has not shown that the district

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[1] Unless otherwise indicated, record references are to the docket entries ("Dkt.") in *United States v. Manafort*, No. 17-cr-201-1 (ABJ) (D.D.C.), and the transcript of the June 15, 2018 detention hearing ("Tr.").

court committed clear error in its factual findings or any legal error, and thus has not shown a likelihood that this Court will reverse the Order when it considers the merits of Manafort's expedited bail appeal. Moreover, equitable considerations weigh against release pending appeal. The district court has taken steps to minimize the impact on Manafort's ability to prepare for his upcoming trials; the government has offered to do the same; and Manafort has not sought any relief from the district court or the government, including the Bureau of Prisons, with respect to any confinement conditions.

STATEMENT

A. Manafort Attempted To Obstruct Justice While On Pretrial Release

On October 27, 2017, Manafort was first indicted by a grand jury in this District on nine counts, including conspiracy to defraud and commit offenses against the United States, conspiracy to launder money, failure to file reports of foreign bank accounts (FBAR), making false and misleading statements, and acting in the United States as an unregistered agent of a foreign principal, in violation of the Foreign Agents Registration Act (FARA). Dkt. 13. As recounted by the district court in its remand decision, on October 30, 2017, Manafort was ordered released to the Pretrial Service Agency's high-intensity supervision program and subject to the condition of home detention and a $10

million unsecured personal recognizance bond. *See* Dkt. 9; 10/30/2017 Tr. 19. The order releasing Manafort to home detention informed him that he was "not to commit any criminal offense nor violate any condition of this release order – a rearrest for any offense based upon probable cause may be grounds for revoking your release." Dkt. 9 at 2.

At a bail-review hearing, the district court concluded that release on an unsecured bond would not reasonably assure Manafort's appearance at trial given the risk of flight he presented and that, to be released from home detention, Manafort would have to supply either security or a surety supporting the $10 million bond. Dkt. 328 at 2; Nov. 6, 2017 Tr. 24-27. Manafort has not been able to meet these financial requirements and has remained on home detention. Dkt. 328 at 2. (Manafort was, though, permitted to leave his home for various approved reasons, including to meet with counsel.)

2. On February 23, 2018, the grand jury returned a superseding indictment that included new allegations concerning a part of Manafort's illegal United States lobbying scheme. The new allegations involved the secret retention of a group of former senior European politicians—informally referred to by Manafort and his conspirators as the "Hapsburg" group—who would advocate positions favorable to Ukraine. Members of the Hapsburg group held themselves out as ostensibly independent third parties but were in fact paid

lobbyists for Ukraine. Dkt. 202 ¶¶ 30-31. The group's work was managed by Manafort and principals of a public-relations company: Person D1 and his close colleague, Person D2. Dkt. 315 at 4. That work included lobbying efforts in the United States. For example, Hapsburg group members met directly with various U.S. politicians in Washington, D.C., and submitted op-eds to U.S. publications. Dkt. 322 at 4. After one Hapsburg group member meeting with U.S. politicians, Manafort met with Person D2 in Washington to discuss how the member's meetings that day had gone. *Id.* Manafort then wrote a report to Ukraine's president boasting of the success of the group's efforts in the U.S. *Id.* at 5-6; Dkt. 322-2 (memo); Dkt. 328 at 10.[2]

The day after the superseding indictment was returned, Manafort called Person D1, asked him if he had seen any articles about Hapsburg, and said that he needed to give Person D1 a heads-up about Hapsburg. Tr. 25. Person D1—who had not previously been in regular contact with Manafort—hung up on him. *Id.* When his subsequent calls went unanswered, Manafort contacted

[2] A more complete account of the Hapsburg group's United States lobbying activities is provided in the government's district court bail revocation motion and reply filings, including a declaration by an FBI Special Agent and exhibits attached to the filings, including a chart of pertinent communications. See Dkt. 315, 322. The government notes that the month mentioned in paragraph 14 of the declaration (Dkt. 315-2 at 6) should be April, not July. In addition, the attribution in footnote 2 of the reply brief (Dkt. 322 at 4) to Person D2 should be Person D1.

Person D1 via an encrypted messaging application. Dkt. 328 at 6 ("This is paul."). Manafort then sent Person D1 a link to an article reporting on the new indictment's allegations, including that the Hapsburg group's activities included lobbying in the United States. *Id.* Manafort immediately followed with an encrypted message stating: "We should talk. I have made clear that they worked in Europe." *Id.* Person D1 saved screenshots of these communications and understood the outreach as an effort to "suborn perjury." *Id.* at 19.

Two days after Manafort's messages to Person D1, Konstantin Kilimnik—a longtime associate of Manafort's who had worked with him in Ukraine—contacted Person D2 on two encrypted messaging platforms. He wrote: "My friend P is trying to reach [Person D1] to brief him on what's going on." Dkt. 328 at 6. Two minutes later, Kilimnik added: "Basically P wants to give him a quick summary that he says to everybody (which is true) that our friends never lobbied in the US, and the purpose of the program was EU." *Id.* Approximately four hours later, Kilimnik switched to another encrypted application and sent a similar series of messages to Person D2, including a message relaying Manafort's summary that the Hapsburg group never lobbied in the United States and that Manafort was Person D1's friend. *Id.* As did D1, Person D2 saved screenshots of these communications. Dkt. 315-2 at 5 n.1.

3. On February 22, 2018, a separate superseding indictment against Manafort was unsealed in the Eastern District of Virginia. Dkt. 9, *United States v. Manafort*, No. 1:18-cr-083 (E.D. Va.). That indictment included new bank-fraud allegations, but other allegations in it overlapped with the D.C. indictment. Both indictments charge tax offenses and failure to report foreign accounts arising from payments for Manafort's unregistered lobbying work that were funneled through Manafort's offshore accounts.[3] *Compare id.* ¶¶ 2-5, 14-17, 19-24, 46, 50, *with* Dkt. 202 ¶¶ 2-3, 5, 14-17, 32-38. On March 9, 2018, the Virginia district court entered a pretrial release order providing in part that Manafort "must avoid all contact, directly or indirectly, with any person who is a victim or witness in the investigation or prosecution of the defendant." Dkt. 328 at 18 (quoting Virginia order).

Manafort, however, continued his efforts to connect with Persons D1 and D2. On April 4, Kilimnik repeatedly contacted Person D2 on two encrypted messaging applications. He wrote: "My friend P has asked me again to help connect him with [Person D1]. Can you help?" "I tried him on all numbers." Dkt. 328 at 8. Kilimnik also tried Person D1 directly, writing: "My friend P is

[3] The government proposed a single trial on all charges in D.C., but Manafort declined to waive venue. *See* 2/14/1018 Tr. 16 (Dkt. 280) (court's statement to defense counsel that the only thing "more unusual than the government offering you the choice is the choice you're making").

looking for ways to connect to you to pass you several messages. Can we arrange that." *Id.* Persons D1 and D2 avoided responding to any entreaty.

B. Bail Revocation Proceedings

1. On May 10, 2018, Manafort filed a renewed motion to revise his conditions of release. Dkt. 291. The government did not oppose the financial package or surety that Manafort proposed. Dkt. 304. But the government informed the district court in an *ex parte* filing—which has since been unsealed—that it had recently obtained evidence that Manafort had attempted to tamper with witnesses. Dkt. 308, 325. The government thus sought ten days to investigate further and provide its position on Manafort's latest bail proposal. That application was granted. May 31, 2018 Minute Order.

On June 4, the government duly filed a motion pursuant to 18 U.S.C. § 3148 to revoke or revise Manafort's pretrial release. Dkt. 315. Section 3148 provides that the presiding "judicial officer shall enter an order of revocation and detention if, after a hearing," that officer finds "probable cause to believe that the [defendant] has committed a Federal, State, or local crime on release" and makes one of two additional findings: either (1) that "there is no condition or combination of conditions of release that will assure that the [defendant] will not flee or pose a danger to the safety of any other person or the community," or that (2) the defendant "is unlikely to abide by any condition or combination

of conditions of release." 18 U.S.C. § 3148(b). A finding of probable cause that the defendant committed a "felony," in turn, triggers "a rebuttable presumption . . . that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community." *Id.*

2. On June 8, the grand jury returned a superseding indictment charging Manafort and Kilimnik with attempted witnesses tampering and, in a separate count, conspiracy to commit witness tampering. Dkt. 318 ¶¶ 48-51. The government promptly transmitted a copy of the June 8 indictment to Manafort, whose response to the revocation motion was due later that day. In that response, Manafort did not acknowledge that he had been indicted for the conduct that formed the basis of the government's motion; did not address the presumption in favor of detention triggered by the grand jury's probable-cause finding, *see* 18 U.S.C. § 3148(b); and did not propose additional conditions of release for the court's consideration. Instead, Manafort asked the court to accept his previously proposed bail package and release him from home detention. Dkt. 319 at 8.

On June 15, 2018, the district court held a hearing on the government's motion. The court set out the history of the bail proceedings. Tr. 5-8. It explained that, in light of the witness-tampering charges, the court would not make an independent determination of probable cause that Manafort committed

those offenses. *Id.* at 17, 23. The court thus directed the parties to focus on the additional issues relevant under Section 3148(b)(2): whether conditions of release would assure Manafort's presence at trial and prevent him from posing a danger to the community and, if so, whether he was likely to abide by such conditions. Tr. 23-24. After hearing argument, the court revoked Manafort's pretrial release and ordered him detained pending trial. *Id.* at 50-51. The court denied Manafort's oral motion to stay its detention ruling pending appeal. *Id.* at 51-52 (stating that, in light of the court's ruling, "the risk of flight has just multiplied substantially").

3. That evening, the court issued a 19-page Order supplementing its oral decision and setting forth its findings. Dkt. 328. The court explained that the grand jury's finding of probable cause that Manafort committed witness tampering (and thus violated his conditions of release) triggered a "rebuttable presumption that no condition or combination of conditions will assure that the defendant will not pose a danger to the safety of any other person or the community." *Id.* at 11. The court concluded that Manafort had made a sufficient showing to rebut the presumption "given the relatively low threshold" required to do so, but stressed that Manafort's showing "was not a very substantial one" and that, in any event, the presumption remained as an evidentiary factor weighing against release. *Id.* at 14-15. And, although

acknowledging that Manafort's tampering activities did not pose a threat of physical harm to any person, the court explained that the conduct involved "harm to the administration of justice" and "to the integrity of the courts," both of which are "dangers . . . entitled to the full protection of the Bail Reform Act." *Id.* at 17.

Turning to potential conditions of release, the court found that it would be "impractical and ineffective to demand the surrender of [Manafort's] cell phone or to disconnect his internet service." Dkt. 328 at 17. The court further observed that the only condition Manafort proposed was an order barring him from contact with witnesses. The court was "troubled" that some of Manafort's outreaches to Persons D1 and D2 through Kilimnik occurred even after the Virginia court had issued a "clear and unambiguous" no-contact order, and the court doubted the efficacy of such an order given Manafort's insistence that it be accompanied by an explicit list of the government's witnesses. *Id.* at 18; *see* Tr. 49 ("[I]f I say, well, don't call the 56 witnesses that [defense counsel] tells me I need clearly list in the order, will he call the 57th?").

After considering "the nature of" the witness-tampering allegations and the evidence the government "supplied in support of" them, the court found "that there are no conditions that would assure that the defendant will comply" with the basic requirement of the Bail Reform Act that he not commit any

additional crimes while on release. Dkt. 328 at 19. Even if such conditions existed, the court stated, it could not find that "Manafort would abide by" them. *Id.* To the contrary, the court was left "with the unshakeable impression that he cannot be trusted to comply in the future." *Id.*

ARGUMENT

A. Standard of Review

Manafort's motion for release pending appeal effectively seeks a stay of the district court's detention order pending appeal. Manafort should therefore have to show a likelihood of success on the merits and that the balance of equities favors the extraordinary relief he seeks. *See, e.g.*, *Nken v. Holder*, 556 U.S. 418, 434-35 (2009). In deciding whether Manafort has shown a likelihood of success on the merits of his bail appeal, this Court must consider whether he is likely to establish that the district court findings central to his bail appeal are clearly erroneous. *See United States v. Smith*, 79 F.3d 1208, 1209, 1211 (D.C. Cir. 1996) (factual findings underlying a bail determination, such as whether the defendant "presents a danger to the community," are reviewed for clear error).

Citing Federal Rule of Appellate Procedure 9(c), Manafort appears to argue (Mot. 7 & n.4) that this Court should instead make its release decision by considering *de novo* the pretrial-release factors set forth in 18 U.S.C. § 3142(g) and deciding for itself whether release pending appeal is warranted. Manafort

is incorrect. His proposed inquiry would allow a court of appeals—or a single judge of it, *see* Fed. R. App. P. 9(a)(3)—to grant interim relief without considering the deferential standards that govern the appellate court's ultimate review of the challenged district court rulings. It would also omit from the list of factors the statutory presumption in Section 3148(b), which militates against release even when, as the district court found here, the defendant produces some evidence to rebut the presumption. *See* Dkt. 328 at 14-15 (collecting cases). For these reasons, this Court should reject Manafort's approach.

B. Manafort Has Shown No Legal Or Factual Error That Would Support Reversal Of The Detention Order

1. Manafort's principal claim, which he did not raise below, is that the district court committed legal error by failing to consider the weight of the evidence in determining whether any condition or combination of conditions could assure the safety of the community and that this error was significant because the evidence against him was weak. Manafort is wrong on both scores.

First, the district court expressly considered the weight of evidence in making its detention decision under Section 3148(b). Specifically, the court based its finding that no condition of release would prevent Manafort from committing additional crimes against the community in part on

> the evidence supplied in support of the government's motion, including the number of contacts and attempted contacts [with Persons D1 and D2], the persistence of the efforts to make contact, the inferences that can be drawn from what was said, and the clear impact the statements had on [one] recipient, who reported them to the prosecution as an attempt to suborn perjury.

Dkt. 328 at 19; *see also id.* at 9-10 (reviewing the evidence submitted by the parties and their characterizations of it).[4]

Second, Manafort asserts that he could not have had intended to influence the testimony of Persons D1 and D2 because he did not know them to be potential witnesses. As the district court concluded, that contention "strains credulity." Dkt. 328 at 9 n.6. Manafort reached out to those individuals, directly and through a co-conspirator, immediately after return of the superseding indictment and after months without any contact with them. Dkt. 315 at 13-14. Nor were those contacts "merely to give them a 'heads-up' about developing news," Mot. 9. Manafort and Kilimnik made repeated efforts to

[4] To protect Manafort's fair-trial rights, the court stated that, following the grand jury's return of witness-tampering charges, the court would not "independent[ly]" weigh the evidence to resolve the separate statutory question of probable cause to believe that Manafort violated his conditions of release by committing a crime. Dkt. 328 at 11; Tr. 17. That statement is correct as a matter of law. *See Kaley v. United States*, 134 S. Ct. 1090, 1097 (2014) (grand-jury indictment "'conclusively determines the existence of probable cause' to believe the defendant perpetrated the offense alleged"). It was also sensible for the court to forego a detailed assessment of the evidence given its concern that such analysis would inevitably be publicly reported and influence potential jurors. Tr. 18. Understandably, Manafort did not object.

reach Persons D1 and D2 and sent multiple messages designed to alert them to a false cover story—namely, that the Hapsburg group had not lobbied in the United States—in connection with the new allegations in the superseding indictment. *See* Dkt. 328 at 5-8 (listing contacts); *id.* at 8 (Kilimnik messages Person D1 that he had "tried [Person D1] on all numbers"). Such conduct represents a core form of corrupt persuasion covered by 18 U.S.C. § 1512(b)(1). *See United States v. Baldridge*, 559 F.3d 1126, 1142 (10th Cir.) (Section 1512(b)(1) reaches "noncoercive attempt[s] to persuade a witness to lie to investigators"), *cert. denied*, 556 U.S. 1226 (2009); *accord United States v. Edlind*, 887 F.3d 166, 174 (4th Cir. 2018) ("corrupt persuasion includes situations where a defendant coaches or reminds witnesses by planting misleading facts").

2. Manafort also argues (Mot. 8, 10-11) that detention is unwarranted because the crimes he committed while on pretrial release were not "violent" in nature and his release would therefore not pose any "danger to any person or the community," 18 U.S.C. § 3142(g)(4). That argument vastly understates the seriousness of the conduct that prompted Manafort's detention. While he was on bail in a closely watched federal prosecution, Manafort attempted—and conspired with an associate living abroad—to obstruct justice. As the Second Circuit explained in a decision cited by the district court (Dkt. 328 at 12), witness tampering of that sort constitutes "obstruction of justice" and was "a traditional

ground for pretrial detention by the courts" even before Congress allowed "detention for dangerousness" in "the Bail Reform Act of 1984." *United States v. LaFontaine*, 210 F.3d 125, 134 (2d Cir. 2000). That conduct is no less damaging to the justice system when committed through covert corrupt persuasion than through overt violence. *See id.* at 135. ("Although witness tampering that is accomplished by means of violence may seem more egregious, the harm to the integrity of the trial is the same no matter which form the tampering takes.").

In a similar vein, Manafort misunderstands the statutory concept of danger, which "has a much broader construction" under the Bail Reform Act "than might be commonly understood in everyday parlance." *United States v. King*, 849 F.2d 485, 487 n.2 (11th Cir. 1988). Congress intended that its references to "safety" in that statute "be given a broader construction than merely danger of harm involving physical violence," and that the phrase "safety of the community" in particular reflect "the danger that the defendant might engage in criminal activity to the detriment of the community." *Id.* (quoting S. Rep. No. 98-225, at 12 (1984)). The district court here found that Manafort posed just such a danger of committing further crimes. Dkt. 328 at 17, 19. That finding is anything but "speculative," Mot. 10: it is grounded in a common-sense assessment of the risks posed by a defendant who had attempted to

obstruct justice while on home detention and had "skat[ed] close to the line" in adhering to other court orders as well, *see* Tr. 50.[5]

3. Manafort next contends (Mot. 11-13) that the district court erred in finding that he would likely not "abide by" conditions that the court "layered on top of" his existing terms of release. Dkt. 328 at 19; *see* 18 U.S.C. § 3148(b)(2)(B). Manafort claims that he had fully complied with the existing conditions of release and that, in reaching a contrary conclusion, the court operated under the mistaken impression that his outreaches to Persons D1 and D2 violated the Virginia no-contact order and that he had previously violated the court's media-communications order.[6] Those contentions lack merit.

a. As an initial matter, to the extent Manafort means to suggest that the district court based its decision on his violation of another court's order, he is

[5] The decision in *United States v. Nwokoro*, 651 F.3d 108 (D.C. Cir. 2011) (per curiam), cited throughout Manafort's motion, is inapposite. The district court there did not issue written findings of fact as required by statute, and "[t]he transcript of the detention hearing . . . fail[ed] to demonstrate that the . . . court considered all of the statutory factors and made a reasoned decision" about the defendant's risk of flight and the existence of suitable conditions of release. 651 F.3d at 109. The court here, by contrast, promptly issued a 19-page order setting forth the findings relevant under Section 3148(b) and explaining its reasons for ordering Manafort detained pending trial. Dkt. 328.

[6] Manafort is careful to state that he "had been in full compliance" with his release conditions "[p]rior to" the government's June 4 motion to revoke his pretrial release. Mot. 11 (emphasis omitted). Moreover, to the extent that the defense representation is relevant, the government is prepared to present evidence as to its accuracy.

wrong. The district court made clear that it did "not have jurisdiction to sanction a violation of another [c]ourt's order." Dkt. 328 at 18. Rather, the court "consider[ed Manafort's] adherence to" the Virginia court's "admonitions" solely "in determining whether it can place its trust in" him. *Id.*; *see* 18 U.S.C. § 3148(b)(2)(B). Manafort identifies no authority that would bar a judge from considering compliance with another court's order for that purpose.

Further, Manafort's interpretation of the Virginia no-contact order is erroneous. His contacts with Persons D1 and D2 were encompassed by the order. The order required him to "avoid all contact, directly or indirectly, with any person who is a victim or witness in the investigation or prosecution of the defendant." Dkt. 328 at 18. Persons D1 and D2 are witnesses in the single "investigation" that, for venue reasons, gave rise to two "prosecution[s]" in neighboring districts. *See id.* And their evidence is not limited to the D.C. FARA charges. They and the Hapsburg group were paid through Manafort-controlled offshore accounts; as a result, Persons D1 and D2 are also witnesses on the FBAR and tax charges that are common to the D.C. and Virginia prosecutions. *See* Dkt. 318 ¶¶ 2-3, 6, 17-18, 32-38; Dkt. 9 ¶¶ 2, 4-5, 7, 14-17, 19-25, 46, 50, *United States v. Manafort*, No. 1:18-cr-083 (E.D. Va.).

Manafort also errs in contending (Mot. 12) that he could not have violated the Virginia court's no-contact order because his only "direct communications"

with Person D1 occurred in February 2018, before the Virginia court entered its March 9 order. Manafort fails to address Kilimnik's efforts to contact Persons D1 and D2 in April 2018, the month after the order was entered. Dkt. 328 at 18; *see id.* at 8 (chart listing the communications). As the district court noted, those messages "specifically attribute" to Manafort "the re-initiation of the attempts to contact [Person] D1." *Id.* at 18 ("My friend P asked me again to help connect. . . ."). And even if they had not, Manafort would still be responsible for the acts that Kilimnik, his co-conspirator, committed in furtherance of the conspiracy. *See United States v. Ballestas*, 795 F.3d 138, 146 (D.C. Cir. 2015) ("It is a well-established principle of conspiracy law that 'the overt act of one partner in a crime is attributable to all.'" (quoting *Pinkerton v. United States*, 328 U.S. 640, 647 (1946))).

b. Finally, contrary to Manafort's contention, the district court did not assert that he "had violate[d] its own order limiting public statements to the media," Mot. 12. *See* Dkt. 38 (order barring "the parties" and their counsel "from making statements to the media or in public settings that pose a substantial likelihood of material prejudice to this case"). The court was well aware of the procedural history that Manafort recounts: the court issued a show-cause order upon learning that Manafort had helped prepare a favorable op-ed piece for publication in an English-language paper in Ukraine, but discharged

that order after finding "that maybe it wasn't entirely clear to the defendant that that was covered by the media communication order." Tr. 7; *see* Dkt. 328 at 2-3. As the court soundly concluded, that episode was relevant to its detention determination: it demonstrates Manafort's tendency to "skat[e] close to the line" (Tr. 50) by construing court directives "as narrowly as possible," Dkt. 328 at 19, thus raising doubts about his ability, and willingness, to abide by any additional conditions of release that the court imposed.

C. Any Impact On Manafort's Trial Preparation Does Not Support Release

Manafort asserts (Mot. 2, 8, 11, 14) that release pending appeal is necessary to allow him to prepare for his two upcoming trials: one in the Eastern District of Virginia starting on July 25, and the other in this District beginning on September 17. The government does not dispute that limitations on a defendant's trial preparation can be a serious concern. But those limitations are common to defendants incarcerated pending trial, and Manafort has not taken any steps to bring specific problems to the attention of the district court or the government.

Notably, the district court and the government have demonstrated their willingness to address any trial-preparation concerns. On June 21, for example, the court entered an order pursuant to Section 3142(i) directing in part that

Manafort "be afforded reasonable opportunity for private consultation with counsel." June 21, 2018 Minute Order. The government, for its part, has offered orally and in writing to work with Manafort's counsel on requests to house him in a facility closer to his attorneys, including through a motion to the district court if necessary. Manafort, however, has not availed himself of the government's offer of assistance. Given Manafort's inaction and the court's availability to address such concerns, any purported impact on his trial preparation provides no basis for release. *See United States v. Gilley*, 771 F. Supp. 2d 1301, 1308 (M.D. Ala. 2011) (noting, in upholding a detention order, that the government had "already worked with jail officials to make substantial changes in the circumstances of [the defendant's] detention to accommodate his trial-preparation needs").

Manafort's delay in seeking relief further counsels against release. Indeed, while Manafort complains (Mot. 2) that briefing in his expedited appeal will not be completed until two days before his Virginia trial begins, his own actions led to that schedule. The district court's bail Order and the transcript of the hearing were entered on the docket the evening of June 15. Yet Manafort waited 10 days—until June 25—to notice an appeal and another three days to seek release pending appeal from this Court. The failure to exercise "reasonable diligence,"

Benisek v. Lamone, 138 S. Ct. 1942, 1944 (2018), weighs strongly against the extraordinary relief that he now seeks.

CONCLUSION

For the foregoing reasons, Manafort's motion for release pending his appeal of the district court's detention order should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Response in Opposition to be served through this Court's CM/ECF system on counsel for defendant-appellant Paul J. Manafort, Jr.

/s/
SCOTT A.C. MEISLER
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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I hereby certify that this response in opposition complies with Rule 27(d)(2)(A) because it has been prepared in a 14-point Calisto MT font and contains 4849 words, excluding parts exempted by Rule 32(f).

/s/
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