UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA	)	
	)	No. 1:18-cr-192-JL
v.	)	
	)	
IMRAN ALRAI	)	

GOVERNMENT'S OBJECTION TO DEFENDANT'S
EMERGENCY MOTION FOR IMMEDIATE RELEASE

The United States of America, by Scott W. Murray, United States Attorney for the District of New Hampshire, objects as follows to the Defendant's Emergency Motion for Immediate Release to Home Confinement Pending Sentencing and for an Expedited Telephonic Hearing (ECF No. 78):

INTRODUCTION

On December 13, 2019, following a ten-day trial, this Court found Defendant Imran Alrai ("Alrai") guilty of 44 counts of wire fraud, money laundering, and transportation of stolen property, as charged in a superseding indictment. After announcing its findings, the Court held a hearing to determine Alrai's detention status pending sentencing. At the hearing, the government moved to detain pursuant to 18 U.S.C. § 3143(a)(1) based on flight risk, citing Alrai's strong ties to Pakistan (where he owns real property and has wired more than $1 million that he has neither repatriated nor accounted for), his "proven facility for concealing and disguising his identity and . . . penchant for lying to anyone he encounters, if it helps his circumstances," the near-certain prospect of a lengthy prison sentence under the Sentencing Guidelines, the absence of a meritorious basis for appeal, and his complete lack of contrition. (Transcript of Detention Hearing at 3-5, ECF No. 74).

Representatives of the United Way (the principal victim in the case) also spoke, emphasizing that detaining Alrai was "the beginning of the process to ensure that [United Way] will be compensated," and that it would be "a real travesty" if he fled and escaped justice. (Tr. Det. Hearing at 7-9.) The defendant argued that he had been fully compliant for 13 months while on pretrial release, that he had surrendered his passports and could not legally exit the United States, that "essentially all of their assets had been frozen as a result of this," and that Alrai had strong family ties to New Hampshire and owns property here. (ECF No. 74 at 10-12.)

The Court ordered detention, stating that it regarded Alrai as a "high risk of flight." (ECF No. 74 at 13.) The Court pointed out that "many white-collar defendants have zero capacity to really understand that a judge might send them to prison," and that after a guilty verdict "motivations change and the risks and the odds change." The Court noted that Alrai has "friends who could sustain him in a situation of flight," that his own father "bald-faced lied" at the trial, and that he was "a person who has the capacity to conceal and deceive and try to evade the consequences here and who would have support in this community and elsewhere to sustain himself, if he needed to do it." Therefore, because of Alrai's "strong motivation to try to evade this result," the evidence was not "clear and convincing" that he would not flee. (ECF No. 74at 13-15.)

The Court added that it would be willing to reconsider detention if Alrai could point to a meritorious appeal issue, since "the one thing I do fear is detaining someone who is wrongfully convicted." The Court also said that if Alrai engaged in conversations regarding restitution to the victims, that circumstance could have a bearing on detention. (ECF No. 74at 16.)

Alrai has since been detained at the Merrimack County House of Corrections. He recently hired new counsel, and his sentencing hearing is now scheduled for June 8, 2020. On

March 23, 2020, Alrai filed the instant emergency motion for immediate release, citing the proliferation of the COVID-19 virus.[1] In his motion Alrai argues that (1) he is vulnerable to the virus because he has a "weakened immune system" and now is detained in jail in "an extremely dangerous environment" with "limited medical capabilities"; (2) he is now less of a flight risk because "heightened security and travel restrictions worldwide" related to COVID-19 make it more difficult to flee the country; (3) he intends to challenge the loss calculation as a "central issue" in his case, which may lead to an appeal; and (4) during the pandemic he "will experience even further restrictions on his ability to coordinate with counsel in preparation of his sentencing, forfeiture, and restitution defense." (ECF No. 78 at 1-8.) Accordingly, Alrai contends, he has now met his burden to show that he is not a flight risk and should be immediately released to home confinement. (ECF No. 78 at 9-10.)

The government objects to release. As shown below, Alrai is now a greater risk of flight that he was three months ago, since he faces near-certain imprisonment as reported in the PSR, has made additional covert efforts to transfer previously unknown stolen assets, and has experienced life behind bars in a way that may compel him to flee when he gets the chance. Regarding the effects of the current pandemic, Alrai speaks generally and speculatively, but produces no particularized medical evidence, and no specific reasons why his continued

[1] Alrai does not identify the procedural vehicle that authorizes his "emergency motion." Notably, § 3143(a)(1) does not expressly permit a convicted defendant to reopen a court's decision to detain him pending sentencing. In this respect § 3143(a)(1) is different from the pretrial detention statute, which permits reopening of a detention hearing "at any time before trial" if the court finds that "information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue." 18 U.S.C. § 3142(f). Presumably the present motion is in form a motion to reconsider. Such motions are appropriate only when (1) the moving party presents newly discovered evidence; (2) there has been an intervening change in the law; or (3) the original decision was based on a manifest error of law or was clearly unjust. *U.S. v. Allen*, 573 F.3d 42, 53 (1st Cir. 2009). In any event, at the December 13, 2019 hearing, the Court advised the defendant that its ruling was without prejudice because "you can always file a motion for release." (ECF No. 74 at 16.)

incarceration at the Merrimack jail unreasonably threatens his well-being. His claim that he will appeal the Court's loss calculation is irrelevant, since it bears only on sentencing and not guilt or innocence. And his argument that he will not be able to assist his lawyer prepare for sentencing is baseless, since the jail permits free attorney calls and in-person noncontact visits with counsel.

ARGUMENT

I. Alrai is More of a Flight Risk Than Ever.

The dispositive issue in this proceeding under 18 U.S.C. § 3143(a) is whether Alrai, having been convicted at trial, has met his burden to prove by clear and convincing evidence that he is "not likely to flee" if released. The gist of Alrai's argument on that issue is that travel and security restrictions imposed during the COVID-19 pandemic "virtually eliminate the risk that Mr. Alrai can flee," so "the flight risk calculus has dramatically changed." (ECF No. 78 at 4.) But his argument is deeply flawed, in several respects.

First, Alrai's claim assumes that today's travel and security restrictions are fixed and immutable, at least until the sentencing hearing in early June. But of course that's not true. As every person living through this pandemic understands, local and national restrictions and guidelines change daily. All is in flux from day to day. Even now the national government, facing a likely recession as a result of unprecedented measures to protect public health, is openly considering relaxing policies that restrict commerce and movement, so as to begin to put a "socially distanced" nation back to work. Other nations can also be expected to adjust their policies. Thus, although air passage to Lahore (or Toronto or Frankfurt) may be difficult to secure now, the global travel landscape will likely be very different eight weeks from now, when the defendant, with his sentencing hearing still ahead of him, may be strongly tempted to run

because he cannot go back to jail. This Court cannot safely assume that the current array of travel and security restrictions is permanent and guaranteed.

Second, Alrai's argument further assumes that the Court's post-trial finding of flight risk was premised on the notion that it would have been relatively easy for Alrai to flee to another country. That assumption is also wrong. Had he been released after conviction, it was never going to be simple for Alrai to abscond. He would have been closely supervised by the probation office, and subject to numerous conditions of release. He had no passport. He could not freely spend money. He was a convicted felon, presumably on various watch lists. In short, even without COVID-19 travel restrictions, Alrai would have faced formidable obstacles had he set his mind to international flight.

Manifestly, this Court was well aware of those obstacles, but ordered detention anyway. The Court noted that Alrai was surrounded by family and perhaps friends who would do anything (including commit perjury) to sustain him, and that he inherently had enough "capacity" to "conceal and deceive" such that the risk of flight was real, regardless of impediments. (ECF No. 74 at 15.) Indeed, Alrai's unique "capacities" were on full display during the 10-day trial. For example, the trial evidence showed that (1) for 18 months Alrai served as full-time CIO for both United Way and the Robert Allen Group, with neither company's knowing about his employment at the other; (2) Alrai secretly rigged and commandeered the RFP process at United Way so effectively that at the end of the weeks-long process and for years afterwards his colleagues at the charity believed that DigitalNet was an independent contractor that had fairly won the IT services contract; (3) Alrai scripted and oversaw a critical in-person meeting at United Way between his supervisor and an imposter who pretended to be "Mac Chaudhary" and convinced the supervisor of DigitalNet's bona fides; and

(4) Alrai employed a quintet of DigitalNet personnel who worked daily with United Way employees for five years but who never revealed that Alrai called all the shots.

In short, at the detention hearing it was obvious that Alrai was willing to take enormous risks to achieve criminal objectives that lesser fraudsters would have considered out of reach. Just so with flight. After the trial, it was very difficult for Alrai, even with his considerable resources, to escape to Pakistan. But the possibility was real that Alrai, who had repeatedly demonstrated cunning and ingenuity in overcoming daunting odds, would decide to take one more great risk and pull it off. And so detention was required.

Third, Alrai's contention that the flight risk calculus has "dramatically changed" in his favor ignores the many reasons to conclude that the risk of flight is considerably *greater* now than it was at the end of the trial. To begin, since the trial the presentence investigation has been completed and the initial presentence report disclosed, and according to the probation officer the total offense level is 27, which when combined with Alrai's criminal history category of I yields an advisory guidelines range of 70-87 months.[2] To a white collar criminal long in denial, the news that the guidelines recommend a sentence of 6-7 years' imprisonment surely increases that defendant's incentive to flee.

In addition, as the Court is now aware, after he was convicted and detained pending sentencing, the defendant covertly attempted to withdraw all of the funds from his 401(k) account. (ECF No. 71.) According to the PSR, the defendant did not list his retirement account as being among his assets. On February 20, 2020, the Court issued an order preventing him from withdrawing the funds. (ECF No. 72.)

[2] The government contends that this is too low a guideline calculation and will outline its reasons in its objection to the PSR.

Even more disturbingly, records the government obtained from Bank of America after the defendant's conviction indicate that as the government was identifying and freezing the defendant's fraud proceeds in June and July 2018, the defendant took additional steps to shelter and hide his ill-gotten funds. For example, on June 18, 2018—just six days after he was fired and the government executed a search warrant at his house and seized three of his bank accounts—the defendant opened two new bank accounts at Bank of America: one in the name of UltPult and another in the name of 31 Lowell Road Realty Trust.[3] That same day, a check for more than $11,600 was deposited in person at the Salem, New Hampshire, branch into the defendant's personal Bank of America account. Despite there being no similar deposits from February 2018 through June 2018, between June 18, 2018, and February 12, 2019, checks totaling over $321,000 were deposited into the defendant's personal Bank of America account either in person or via an ATM in Salem, New Hampshire.[4] The source of these funds is presently unknown although there is every reason to suspect they include additional moneys stolen from United Way. Indeed, between June 21, 2018, and July 20, 2018, three deposits—

[3] *See also* 18R148_BOA-00409, 411.

[4] These deposits are charted below:

Date	Credit	Type of Deposit	Location
02/12/2019	$121,500.00	ATM deposit	220 N. Broadway, Salem, NH
01/14/2019	$40,000.00	ATM deposit	220 N. Broadway, Salem, NH
12/10/2018	$30,000.00	Counter Credit	220 N. Broadway, Salem, NH
11/13/2018	$33,000.00	ATM deposit	220 N. Broadway, Salem, NH
11/06/2018	$1,850.00	ATM deposit	220 N. Broadway, Salem, NH
10/15/2018	$31,618.00	ATM deposit	220 N. Broadway, Salem, NH
08/15/2018	$47,090.24	Counter Credit	220 N. Broadway, Salem, NH
06/19/2018	$4,596.70	Counter Credit	220 N. Broadway, Salem, NH
06/18/2018	$11,650.90	Counter Credit	220 N. Broadway, Salem, NH
Total:	**$321,305.84**		

two in person checks and one mobile deposit—totaling over $60,000 were made into a DigitalNet Bank of America account.[5] Although the source of the mobile deposit is currently unknown, the two checks were fraud proceeds transferred from the defendant's AISA Citizen's Bank account. *See, e.g.*, GX 923.

Beginning on July 27, 2018, and continuing through March 15, 2019, the defendant transferred $234,509.48 from his personal Bank of America account to the DigitalNet account at Bank of America.[6] Records from the DigitalNet Bank of America account, which the government previously obtained and produced to the defendant, 18R418_BOA-00423, show that the defendant then transferred many of those funds to Pakistan. Notably, between June 22, 2018, and February 22, 2019—after he was fired and while the government was identifying and seizing his various accounts and continuing for months after he was indicted in this case—the defendant wired $132,850 to Pakistan from his DigitalNet Bank of America account. The defendant even wired more than $38,000 *after* December 2018, when the government filed its motion to repatriate the laundered fraud proceeds he had previously wired to Pakistan. (ECF No. 7, filed December 3, 2018).[7]

[5] These deposits are charted below:

Date	Credit	Type of Deposit	Location
07/20/2018	$3,000.00	Mobile Deposit	New Hampshire
07/11/2018	$29,000.00	Counter Credit	220 N. Broadway, Salem, NH
06/21/2018	$28,500.00	Counter Credit	220 N. Broadway, Salem, NH
Total:	**$60,500.00**		

[6] The grand jury returned the Superseding Indictment on March 6, 2019. The defendant's personal, DigitalNet, and UltPult Bank of America accounts were closed on April 15, 2019, and $49,661.42 was withdrawn from the accounts. *E.g.*, 18R148_BOA-00381, 385, 397.

[7] The defendant wired at least the following sums to Pakistan after June 12, 2018, the day of the search warrants and his termination at United Way:

Date	Amount
6/22/2018	20,855.00

These facts are particularly striking in light of the arguments Alrai made at the detention hearing on December 13, 2019. At that hearing, defense counsel explained that "essentially all of [the defendant and his wife's] assets have been frozen" and he and his wife were "out of basically all of their personal savings." (ECF No. 74 at 12.) The defendant initially argued that, after he was fired from United Way, he and his wife relied on his wife's income. Only after the Court inquired further about Ms. Alrai's employment did she correct the record and clarify she had not worked since she was fired from Pentucket Bank. (ECF No. 74 at 11-12.) The source of funds now covering the defendant's living and legal expenses remains a mystery. And solving that mystery via post-conviction discovery procedures will likely require that Alrai be physically present and available to provide needed documents and answer questions.

Put simply, Alrai has shown a thoroughgoing lack of interest in discussing how to make restitution to the victim, as the Court suggested at the detention hearing, or in honoring the Court's order to repatriate the huge sums he wired to Pakistan. (ECF No. 74 at 16.) Instead, he has demonstrated a persistent willingness to mislead the government, this Court and, it seems, his counsel to hide his fraud proceeds. He has the means to flee and cannot be trusted not to do so.

Finally, Alrai's three-month period of confinement at Merrimack County makes the potential for flight even more real. Having served some months of jail time, Alrai has seen a

7/16/2018	17,955.00
8/15/2018	17,085.00
9/21/2018	13,455.00
10/22/2018	12,045.00
11/19/2018	12,600.00
12/13/2018	14,150.00
1/24/2019	13,705.00
2/22/2019	11,000.00

new reality. If he is released again for two and a half months, and knows he faces the strong likelihood of many years of further confinement, the temptation to abscond to preserve his liberty may ultimately prevail.

In summary, because the risk of flight is demonstrably greater now than it was after the trial, this Court should decline to take that risk, and continue to detain him.

II. Alrai Has Failed to Identify Specific Reasons Justifying His Claim To Special Treatment As a Result of the COVID-19 Pandemic.

Alrai's claim that he is being "cruelly" and "unnecessarily" exposed to COVID-19 at the Merrimack County House of Corrections is long on internet citations but markedly short on specifics. (ECF No. 78 at 3.) Notably, Alrai points to nothing about his actual circumstances at the Merrimack jail that demonstrates an unreasonable risk to his health and well-being. Nor does he explain why the current COVID-19 pandemic is so categorically different from other deadly epidemics requiring that the jail that houses him must release its prisoners. Finally, he utterly fails to show that his individual medical history and circumstances justify special treatment.

Regarding the Merrimack jail, currently there are no confirmed cases of COVID-19 at the jail or anywhere in the New Hampshire corrections system. Nonetheless, the jail has taken strong measures to prevent the spread of the COVID-19 virus over the last month.[8] Specifically:

- **No Non-Legal Visitation:** The Merrimack jail has suspended all non-attorney in-person visits, programming, and volunteer activities. For all staff, essential vendors, and legal visitors, the jail performs a COVID-19 screening for these limited visitors. The screening includes asking a series of questions to determine possible exposure to COVID, observing whether the person is displaying flu-like or COVID-

[8] The website of the New Hampshire Department of Corrections details its many anti-COVID measures and references various updates on its home page. *See* https://www.nh.gov/nhdoc/.

associated symptoms, and taking their temperature, as suggested by CDC guidelines. Anyone displaying symptoms, giving a positive response, or showing an elevated temperature, is denied entry into the facility. Legal visits are "zero contact," through plexi-glass in all cases. Beginning March 23, all inmate calls to attorney numbers are free to inmates for a 30-day period.

- **Inmate Screening and Awareness:** All new detainees and inmates are subject to similar COVID-19 screening. Even with a negative result, they are then placed into a holding cell for 24 to 72-hours. Afterwards, new inmates are housed in a quarantine zone for 14 additional days before being admitted to the general population. Furthermore, information has been provided to inmates about symptoms and facility staff are reminding detainees to put in requests to see medical personnel if they are feeling poorly.
- **Quarantine:** The jails have plans for large-scale quarantine if any inmates test positive for the virus. In addition, the jail has already implemented procedures to maximize social distancing and limit large group gatherings, including staggering activities that would previously have exposed large groups to each other. Behavioral health groups and chapel services are suspended.
- **Extra Cleaning:** Additional measures have been taken to maintain cleanliness of facilities, detainee hygiene, and access to (and awareness of) medical treatment.

In his motion Alrai ignores these special measures. He points to no instance in which the jail has acted unreasonably; he identifies no practice that violates CDC guidelines for prisons and jails; he points to no medical treatment or medication of which the jail deprives him. Instead, he declares as a general matter that the jail is "extremely dangerous" and has unspecified "limited

medical capabilities," that infection from COVID-19 at the jail is inevitable, and that the only remedy, for him and by extension for most if not all of New Hampshire's inmates, is immediate release. But he does not say why. *See United States v. Hallinan*, 318 F. Supp. 3d 728, 738 (E.D. Pa. 2018) (noting that defendant's "general assertions" regarding safety concerns and staffing within BOP did not establish that particular BOP facility could not adequately treat him).

Remarkably, in his motion Alrai ignores the long history of and experience with communicable diseases in our correctional systems. This pandemic, though a serious and disastrous public health crisis that will surely infect and kill many more Americans than it has to date, is not the first time prisons and jails have had to cope with deadly contagions. In recent history, AIDS, MERS, H1-N1, tuberculosis, hepatitis, and influenza have all been and remain significant and sometimes deadly threats to inmates behind the walls, just as they are to millions of non-incarcerated Americans.[9] Protecting inmates from health threats is surely the first imperative of our penal system, and the federal courts have long been involved in "conditions of confinement" litigation under the Eighth Amendment and other laws to hold prisons and jails accountable when they fall short. *See DeGidio v. Pung*, 920 F.2d 525 (8th Cir. 1990) (addressing tuberculosis outbreaks in state prison). But there is no precedent, at least in modern epidemiological history, for a court to order the broad-based release of lawfully detained prisoners simply because a deadly public health crisis grips the Nation. Alrai's emergency motion is thus an appeal to fear. It has no basis in law.

[9] For example, on January 31, 2020, the New Hampshire Department of Corrections announced that six residents of the New Hampshire State Prison for Men and seven residents of the Northern New Hampshire Correctional Facility had tested positive for influenza. All received medical attention and were recovering without complications. The Department continued to monitor the 13 patients, as well as surveillance of new cases. And it issued appeals to visitors to obtained flu vaccines and take proactive measures to stop the spread of viruses.

Perhaps most importantly, however, Alrai points to nothing about his specific medical circumstances that justifies the special treatment he demands. The law demands such specificity. *See, e.g.*, *United States v. LeBlanc*, 24 F.3d 340, 348-49 (1st Cir. 1994) (affirming refusal to depart downward based on heart condition, where condition could be treated with medicine, there was no medical evidence that defendant's life would be threatened or shortened by incarceration, and there was no evidence that BOP would be unable to adequately accommodate defendant's medical needs). According to the initial PSR, Alrai is 6 ft. 2 inches tall, weighs 185 pounds, is 46 years old, and is habitually fastidious in his hygiene practices. In his motion Alrai points only to a claimed "weakened immune system" as a result of weight loss surgery 16 years ago and related skin procedures, and says that he has prediabetes syndrome, Hypothyroidism, and anemia. Accordingly, he says, the extent of his vulnerability to the COVID-19 virus is "unknown, but concerning." (ECF No. 78 at 2.)

Alrai also submits a brief letter from his physician, Dr. Melissa Zorn. In the letter, Dr. Zorn recites his medical history, including gastric weight loss surgery, vitamin deficiency and anemia related to that surgery, Hypothyroid, history of C. Difficile infection, and mild renal insufficiency on 2019 labs. Dr. Zorn adds only that Alrai's health conditions "may" place him at higher risk for more severe Covid-19 symptoms. (ECF No. 81-1 at 2.) But "[a] chronic medical condition controlled by medication is generally not an exceptional reason justifying release." *United States v. Varney*, 2013 WL 2406256, at *1 (E.D. Ky. May 31, 2013). Notably, Dr. Zorn does not opine that Alrai is immunocompromised (or even prediabetic), as he reported to the probation officer.[10] She does not state that Alrai is particularly susceptible to infection by the

[10] The PSR also states that a response from Tufts Medical Center indicated that no records could be found for the defendant's claimed hernia surgeries between 2014 and 2016. (PSR ¶ 73.)

COVID-19 virus. And she does not conclude that Alrai's specific health conditions are untreatable, that the jail or any other correction facility is unable to accommodate his medical needs, or that he is placed unreasonably at risk by incarceration. *See United States v. Cameron*, 756 F. Supp. 2d 148, 153 (D. Me. 2010) (noting that "high blood pressure is not all that uncommon, and the prison system should be able to treat it"). In short, Alrai requests that the Court make medical and epidemiological predictions without substantial evidence. Even in an emergency, though, this Court properly requires evidence before it grants relief, particularly relief as drastic as that sought here. Because Alrai offers no specific medical basis for his claim, this Court should deny relief. *See United States v. Rebollo-Andino*, 312 F. App'x 346 (1st Cir. 2009) (holding that defendant was not entitled to review of bail decision where defendant failed to introduce medical evidence and failed to explain why detention would prevent him from obtaining adequate treatment).

III. Alrai's Claim That He Will Likely Appeal The Sentencing Court's Loss Calculations Is Irrelevant.

Alrai next maintains that although his counsel "does not yet know whether there are substantial issues for appeal," he nonetheless "anticipates loss calculation as a central issue for sentencing, forfeiture, and restitution." (ECF No. 78 at 6-7.) According to Alrai, although he "deeply regrets hiding his conflict of interest" from his employer, he anticipates that he will demonstrate at sentencing that this Court cannot calculate loss based on the government's evidence at trial, and that the "highly-technical and technological nature" of the "services" he and DigitalNet provided to United Way and the Robert Allen Group "require objective assessment of the government's expert's loss analysis which, on its face, appears impermissibly simplistic and flawed in material respects." (ECF No. 78 at 7.) Alrai thus raises the same tired rhetorical arguments he has pressed all along: that the nature of the IT services industry is so

inherently complicated and arcane that, for example, what may seem to be a facially unjustifiable 900% markup in the cost of a standard off-the-shelf IT "solution" was in fact warranted because of the never-explained "value" that DigitalNet provided to its single customer. And in so doing he continues to demonstrate his lack of remorse and that he has no interest in actually compensating his victim, even while that cash-strapped organization races to help hourly, low-wage workers in Massachusetts weather their crippling losses from the pandemic. *See* UWMB COVID-19 Family Support Fund, *available at* https://unitedwaymassbay.org/covid-19/covid-19-family-fund/.

What Alrai cannot show is that the potential appellate issue he identifies regarding loss amount goes to guilt or innocence, as opposed to a sentencing factor. Nor can he show that a no-jail sentence may ever be in the offing. The Court presumably indicated its willingness to reconsider detention based on a viable appellate issue because one who may be "wrongfully convicted" has a stronger claim for release. (ECF No. 74 at 16.) But Alrai does not predict that he will prove a wrongful conviction on appeal, but only that the loss must be calculated differently. Because Alrai's "appellate issue" argument does not go to guilt or innocence, it has no bearing on his motion.

IV. Alrai Has Not Shown That He Will Be Unable to Assist His Lawyer in Preparing for Sentencing While Housed at the Merrimack Jail.

Finally, Alrai's argument that his continued detention during the pandemic will hamper his ability to assist his counsel in preparing for sentencing is likewise baseless. Alrai fears that in the coming weeks he will "experience even further restrictions" on his ability to coordinate with his lawyer. (ECF No. 78 at 8.) But Alrai does not identify what those restrictions might be, or explain how the jail's current policies of allowing free calls to attorneys and contact-less visits with counsel through plexiglass are inadequate, particularly in light of the relatively long period

for preparation between now and the scheduled June 8 sentencing hearing. Moreover, most of the relevant documents at sentencing are already of record or will soon be produced, including the trial transcripts and exhibits and the presentence report. Counsel does not need to "coordinate" with his client to read and digest those documents. In addition, counsel's complaints about expected "unavoidable disruptions and delays" resulting from working remotely from home during the pandemic have nothing to do with Alrai's detention status, or show his entitlement to immediate release. (ECF No. 78 at 8.)

In summary, Alrai has produced no evidence that his continued detention threatens his right to assist his counsel. This Court should therefore deny relief.

CONCLUSION

Because he has failed to show by clear and convincing evidence that he is not a flight risk, this Court should deny the defendant's Emergency Motion for Immediate Release to Home Confinement Pending Sentencing and For an Expedited Telephonic Hearing.

Respectfully submitted,

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Dated: March 25, 2020

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