UNITED STATES DISTRICT COURT

FOR THE

WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA	§	
Plaintiff,	§	
	§	
V.	§	**CASE NO. 5:26-cr-00448-XR-1**
	§	
MICHAEL DAVID GOFF	§	
Defendant.	§	

DEFENDANT'S BRIEF IN SUPORT OF PRETRIAL RELEASE PURSUANT TO 18 U.S.C § 3142

TO THE HONORABLE JUDGE OF SAID COURT:

I. INTRODUCTION

Michael Goff respectfully moves this Court for an order of pretrial release on conditions, including placement with his parents as third-party custodians. Mr. Goff is charged in a two-count indictment with (1) receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2), and (2) accessing with intent to view child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B). These charges trigger the rebuttable presumption of detention set forth in 18 U.S.C. § 3142(e)(3). That presumption is rebutted here. Conditions of release exist that will reasonably assure Mr. Goff's appearance and the safety of the community.

Mr. Goff's parents stand ready to serve as third-party custodians. They will provide a structured, supervised household in which Mr. Goff will have no unsupervised access to the internet, computers, smartphones, or other internet-capable devices, and no unsupervised contact with minors. Combined with location monitoring, computer restrictions, and standard conditions of pretrial supervision, that environment reasonably addresses both flight and danger concerns under § 3142(c) and (g).

II. LEGAL STANDARD

The Bail Reform Act favors release on the least restrictive conditions that will reasonably assure appearance and community safety. *18 U.S.C. § 3142(c)(1)(B)*. Detention is authorized

only if the Court finds that no condition or combination of conditions will reasonably assure those twin goals. *Id.* § 3142(e)(1).

Because the charged offenses arise under Chapter 110 and involve a minor victim, a rebuttable presumption arises that no conditions will reasonably assure appearance and safety. *18 U.S.C. § 3142(e)(3)(E)*. The presumption is not conclusive. The defendant bears only a burden of production. Once some evidence is offered, the presumption remains as one factor among those listed in § 3142(g), and the government retains the burden of persuasion by clear and convincing evidence as to danger and by a preponderance as to flight. *See United States v. Hare, 873 F.2d 796, 798–99 (5th Cir. 1989)*; *United States v. Fortna, 769 F.2d 243, 250 (5th Cir. 1985)*.

Section 3142(g) directs the Court to consider: (1) the nature and circumstances of the offense, including whether it involves a minor victim; (2) the weight of the evidence; (3) the history and characteristics of the defendant, including family ties, employment, community ties, and past conduct; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

III. ARGUMENT

A. The Nature and Circumstances of the Offense Do Not Compel Detention.

The indictment charges non-production, non-contact offenses: receipt and accessing with intent to view. There is no production count, no travel count, no allegation of contact with a minor, and no allegation of distribution for commercial gain. While Chapter 110 offenses are serious and the statutory presumption applies, courts routinely distinguish possession/receipt cases from production and contact offenses when fashioning release conditions. The conduct alleged is capable of being cabined by technology restrictions, third-party supervision, and monitoring—precisely the conditions proposed here.

B. History and Characteristics Strongly Favor Release.

Mr. Goff has stable family ties. His parents are prepared to take him into their home, accept the legal responsibilities of third-party custodians under § 3142(c)(1)(B)(i), and enforce the Court's conditions. They will provide a residence free of unmonitored internet access and will report any violation immediately to Pretrial Services. Family members who live with a defendant, control the physical environment, and accept personal accountability are among the most effective third-party custodians available under the Act.

There is no indication of a history of failure to appear, of violence, of production of illicit material, or of contact offenses against children. Mr. Goff's ties are local. He has every incentive to appear and to comply: his liberty, his family relationships, and the opportunity to defend the charges on the merits all depend on it.

C. The Weight of the Evidence Does Not Overwhelm the Other Factors.

The weight-of-the-evidence factor is the least important of the § 3142(g) factors at the detention stage and is not a mini-trial on guilt. Mr. Goff maintains his plea of not guilty. Even assuming the government can make a probable-cause showing sufficient to trigger the presumption, that showing does not answer whether conditions can reasonably assure appearance and safety pending trial. They can.

D. Conditions of Release Reasonably Assure Appearance and Safety.

Danger, if any, is specifically related to unsupervised access to internet-capable devices and unsupervised proximity to minors. Those risks are addressable. Flight risk is low given local family ties and the proposed electronic monitoring. The Court may impose any combination of conditions under § 3142(c), including:

1. Release to the custody of Mr. Goff's parents as third-party custodians, who shall (a) supervise the defendant in accordance with all conditions; (b) use every effort to assure the defendant's appearance and compliance; and (c) notify Pretrial Services immediately of any violation or of any change in residence or employment.
2. Home detention or a curfew at the parents' residence, enforced by location monitoring (GPS) at the defendant's expense if the Court so requires.
3. No possession or use of any computer, smartphone, tablet, smart television, gaming device, or other internet-capable device except as expressly authorized in writing by Pretrial Services; any authorized device shall be subject to monitoring software and unannounced inspection.
4. No access to the internet except as specifically approved in advance by Pretrial Services for attorney-client communication, court business, or other narrowly defined necessity.
5. No contact, direct or indirect, with any minor under the age of 18, except in the presence of an approved adult third-party supervisor and with prior approval of Pretrial Services.

6. No possession of any material depicting sexually explicit conduct, whether adult or otherwise, and no entry into any establishment whose primary business is adult entertainment.
7. Participation in any mental-health or sex-offense-specific evaluation and treatment directed by Pretrial Services.
8. Standard conditions of pretrial release, including travel restricted to this District, surrender of passport, reporting as directed, and no new offenses.

These conditions are the least restrictive combination that reasonably addresses the statutory concerns. They place Mr. Goff in a monitored household, remove the instruments of the alleged offense, and give Pretrial Services real-time tools to detect noncompliance. Detention is therefore not required.

E. The Presumption Is Rebutted.

The evidence of family custody, a controlled physical environment, the absence of production or contact allegations, local ties, and a detailed package of technology and contact restrictions constitutes more than the modest showing needed to rebut § 3142(e)(3). The government cannot meet its remaining burden of persuasion that no combination of conditions will reasonably assure appearance and safety. Release on the conditions set out above is consistent with the Bail Reform Act and with Fifth Circuit authority applying it.

IV. CONCLUSION AND PRAYER

For the foregoing reasons, Defendant Michael Goff respectfully requests that the Court deny the government's request for detention, release Mr. Goff to the third-party custody of his parents, and impose the conditions of release described herein, together with such additional conditions as the Court deems necessary and appropriate under 18 U.S.C. § 3142(c).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true copy of the above was served on each attorney of record or party in accordance with the Federal Rules of Civil Procedure to United States Attorneys via CM/ECF.

/s/ Edgardo R. Báez
Edgardo R. Báez