UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA	)	
	)	
v.	)	1:09-cr-00024-JAW
	)	
JAMES M. CAMERON	)	

ORDER ON BAIL CONDITIONS

On August 9, 2011, citing 18 U.S.C. § 3145(c), the Court of Appeals for the First Circuit granted James M. Cameron's motion for bail pending appeal. *Order of Ct.* (Docket # 267). The First Circuit remanded the matter to this Court to set appropriate conditions of release. *Id.* On August 10, 2011, the Court held a telephone conference of counsel and required the Defendant and the Government to propose conditions of release. Both parties filed their proposals. *Defense Proposal of Conditions of Release on Bail Pending Appeal* (Docket # 271) (*Def.'s Proposal*); *Gov't's Resp. to Defense Proposal of Conditions of Release on Bail Pending Appeal* (Docket # 272) (*Gov't's Proposal*). The Court accepts each of the Defendant's proposed conditions of release and rejects each of the Government's.

This bears explanation. To order Mr. Cameron released from confinement under § 3145(c), the First Circuit found that "there are exceptional reasons why such person's detention would not be appropriate." 18 U.S.C. § 3145(c). The appellate court's finding of "exceptional reasons" was made in the shadow of a statutory provision that mandates the incarceration of a defendant who has been found guilty of crimes of sexual exploitation of children. 18 U.S.C. § 3143(b)(2)

("The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) or subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal . . . be detained"). From this Court's perspective, the only reasonable conclusion from the First Circuit's Order is that it has preliminarily concluded that the Court committed a manifestly serious error in arriving at its verdict so that the continued detention of Mr. Cameron would work an injustice.

In its Order, the First Circuit cited *Bullcoming v. New Mexico*, 131 S. Ct. 2705 (2011), in which the United States Supreme Court addressed a defendant's Sixth Amendment right to confrontation and concluded that the admission of a laboratory report of a blood alcohol level without the testimony of the analyst who prepared the report violated the Confrontation Clause. *Id.* Before this Court, Mr. Cameron prominently raised a contention that the images of child pornography in this case were inadmissible without the testimony of a foundational witness. *See Order on Post-Trial Mots.* at 3-15 (Docket # 218). The First Circuit's citation of *Bullcoming* strongly signals that it has concluded the admission of those images was erroneous and since the images formed the basis for the Government's charges, the appellate court may well rule that Mr. Cameron is entitled to a new trial or deem him not guilty.

In these extraordinary circumstances, although this Court has found Mr. Cameron guilty of multiple child pornography crimes and for the moment he remains guilty, the Court will not impose punitive restrictions on his release. Mr.

Cameron has suggested that the Court impose the same conditions of release that it imposed on March 2, 2010, except that in place of a third party custodian, Mr. Cameron be required to wear an active GPS ankle monitor, that Mr. Cameron be required to register with all pertinent sex offender registries if required under state or federal law, and that he report within 72 hours of release from Federal Correctional Institute to United States Probation Officer Robert Jeffrey. *Def.'s Proposal* at 1. The Court reviewed the release conditions imposed on March 2, 2010 and agrees that with two amendments, the same release conditions are appropriate for Mr. Cameron when combined with the additional conditions he suggests. *See Am. Order Setting Conditions of Release* (Docket # 113) (*Am. Order*).

The Court rejects the Government's proposed conditions. The March 2, 2010 conditions included an unsecured bond in the amount of $75,000. *Id.* at 1. The Government asks that the bond be secured. *Gov't's Proposal* at 1. On March 8, 2010, the Court reviewed Mr. Cameron's financial affidavit and concluded that he was entitled to appointed counsel. *Order on Mot. to Withdraw and for Appointment of Counsel* (Docket # 116); *Financial Decl.* (Docket # 118). Although the Government questioned Mr. Cameron's financial standing, the Court has no basis to conclude that he is anything but indigent. *See Order Dismissing Without Prejudice Gov't's Mot. for Recons. and a Hearing on Order Appointing Counsel* (Docket # 121). To impose a requirement that the bond be secured could well frustrate the Court of Appeals' Order releasing Mr. Cameron since there is no indication that he can secure the bond.

The Government also requests that the Court require a third party custodian. *Gov't's Proposal* at 1. In its March 2, 2010, the Court placed Mr. Cameron in the custody of Barbara Cameron, his wife. *Am. Order* at 2. Mr. Cameron is divorced and there is no obvious third party custodian. Furthermore, the Court is ordering active GPS monitoring, which, in this case, is an appropriate substitute for third party custodianship.

The Government's third proposal is that if GPS ankle monitoring is unavailable, he be restricted to home detention with electronic monitoring. *Gov't's Proposal* at 1. The Court will not assume that active GPS monitoring will be unavailable and, if it is, will address alternatives at that time.

The Government's fourth proposal is that the Court require Mr. Cameron to undergo sex offender treatment or counseling as directed by the probation officer. *Id.* The Court will not do so. Mr. Cameron retains his Fifth Amendment right to remain silent and to order him to participate in treatment or counseling would conflict with his Fifth Amendment rights.

In sum, the Court ORDERS that James M. Cameron be released on bail under the same terms and conditions as imposed in its March 2, 2010 Amended Order Setting Conditions of Release except the following conditions are struck:

1) That the defendant is placed in the custody of Barbara Cameron;

2) That the defendant maintain or actively seek employment.[1]

[1] Mr. Cameron did not ask to have this condition lifted but in these circumstances, where he is awaiting an appellate decision of the First Circuit on his multiple convictions, to require that he maintain or actively seek employment seems unrealistic. The Court is not preventing Mr. Cameron from working but will not make a job or a job search a condition of his release.

The following conditions are added:

1) The Defendant must submit to active Global Positioning Satellite (GPS) monitoring and abide by all of the program requirements and instructions provided by the pretrial services officer or supervising officer related to the proper operation of the technology;
2) The Defendant must register with all pertinent sex offender registries if required under state or federal law; and,
3) The Defendant must report in person to Probation Officer Robert Jeffery within 72 hours of release from Federal Correctional Institute Englewood.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 11th day of August, 2011

Defendant (1)

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