

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

UNITED STATES OF AMERICA     )  
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MANUEL TRINIDAD-ACOSTA     )

**ORDER ON MOTION TO STAY ORDER OF RELEASE**

Having original jurisdiction of the alleged offense in this case, the Court stays a release order from the Southern District of New York until its completion of a review of the release order under 18 U.S.C. § 3145(a)(1).

**I. STATEMENT OF FACTS**

**A. Procedural History**

On November 1, 2011, the Government filed a criminal complaint against four defendants, including Manuel Trinidad-Acosta, for an alleged violation of 21 U.S.C. § 841(b)(1)(B), conspiring to distribute cocaine and cocaine base. *Compl.* (Docket # 3). The criminal complaint alleges that Mr. Trinidad-Acosta and others committed this crime “in the District of Maine.” *Id.* On the same day, the Magistrate Judge issued an arrest warrant for Mr. Trinidad-Acosta. *Arrest Warrant* (Docket # 12). Although no return of warrant has yet been filed with this Court, the Government represents that New York City Police arrested Mr. Trinidad-Acosta on local charges on November 4, 2011, and that Drug Enforcement Administration agents arrested him on this charge on November 5, 2011. *United*

*States' Mot. to Stay Order of Release* at 1 (Docket # 36) (*Gov't's Mot. to Stay*); *Arrest of Manuel Trinidad-Acosta* (Docket Entry dated Nov. 4, 2011).

On November 9, 2011, the Government moved to stay a release order issued in the Southern District of New York. *Gov't's Mot. to Stay*. In its motion, the Government represents that on November 7, 2011, Mr. Trinidad-Acosta appeared before Magistrate Judge James C. Francis, IV of the Southern District of New York for a removal and detention hearing. *Id.* at 1. The Government states that Magistrate Judge Francis released Mr. Trinidad-Acosta on the following conditions:

- 1) The posting of a personal recognizance bond in the amount of \$250,000 to be signed by five financially responsible persons;
- 2) The bond is to be secured by the posting of \$10,000 cash;
- 3) The defendant is to be placed on home incarceration with electronic monitoring;
- 4) The defendant may leave his home only for court appearances in the Southern District of New York and in the District of Maine;
- 5) The defendant is to be placed on strict pretrial supervision;
- 6) The defendant is not to be released until all conditions are met.

*Id.* at 1-2. The Magistrate Judge granted a 48-hour stay of release to allow the Government to appeal. *Id.* at 2. The 48-hour period expires at the close of business on Wednesday, November 9, 2011. *Id.* On November 9, 2011, after filing its motion to stay, the Government filed a motion to revoke the order of release. *United States' Mot. for Review of Release Order* (Docket # 37).

## B. The Government's Position

The Government asks this Court to stay the release order “to provide a meaningful opportunity to seek revocation of the release order.” *Gov't's Mot. to Stay* at 2. It argues that the maintenance of the status quo, with Mr. Trinidad-Acosta in custody, will allow the Government and the Court to review the release order. *Id.*

## II. DISCUSSION

Title 18, Section 3145(a) of the United States Code states:

If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

- (1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release. . . .

18 U.S.C. § 3145(a). Because it is “the court having original jurisdiction over the offense,” *id.*, venue for the Government’s motion to stay lies in this Court, *United States v. Evans*, 62 F.3d 1233, 1236 (9th Cir. 1995). *See also United States v. Vega*, 438 F.3d 801, 803-04 (7th Cir. 2006); *United States v. Cisneros*, 328 F.3d 610, 614-16 (10th Cir. 2003); *United States v. El-Edwy*, 272 F.3d 149, 152-54 (2d Cir. 2001); *United States v. Torres*, 86 F.3d 1029, 1031 (11th Cir. 1996). Section 3145(a) “places the review of the magistrate judge’s order in the province of the district court where the prosecution is pending, and where the bail status of the defendant ultimately will be determined during the course of that trial.” *Evans*, 62 F.3d at 1236. Although there is no First Circuit Court of Appeals authority on this question, the district court of Puerto Rico just recently adopted the *Evans* court’s view. *United*

*States v. Godines-Lupian*, No. 11-367, 2011 U.S. Dist. LEXIS 116040, \*4-5 (D.P.R. Oct. 5, 2011) (holding that, under § 3145(a), it is the district court where prosecution is pending, not that of arrest, that can review a magistrate's order). A necessary adjunct to the authority to review is the authority to stay.

### III. CONCLUSION

The Court ORDERS that the United States District Court for the Southern District of New York's Order of Release, dated November 7, 2011, is hereby STAYED pending review of the Order pursuant to 18 U.S.C. § 3145(a)(1).

SO ORDERED.

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

Dated this 9th day of November, 2011

**Defendant (1)**

**MANUEL TRINIDAD-ACOSTA**

**Plaintiff**

**USA**

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