

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL ACTION NO. 19-CR-10459-RWZ

UNITED STATES

v.

ALVIN MOJICA

ORDER

June 17, 2020

ZOBEL, S.D.J.

Alvin Mojica is charged with distribution of and possession with intent to distribute cocaine in violation of 21 U.S.C. § 841(a)(1). He seeks review of a Magistrate Judge's detention order, dated April 30, 2020. The review is de novo. See United States v. Tortora, 922 F.2d 880, 883 n.4 (1st Cir.1990). When the government seeks pretrial detention on the grounds that no condition or combination of conditions will reasonably assure the safety of the community, it must prove this fact by clear and convincing evidence. See 18 U.S.C. § 3142(f). Because distribution of cocaine carries a maximum penalty of more than ten years, see 21 U.S.C. 841(b)(1)(C), there is also a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of the community. 18 U.S.C. § 3142(e).

In late April, the defendant, who has asthma, contracted COVID-19. He has apparently now recovered, but he argues that his continued detention violates his Fourteenth Amendment due process right to be free from pretrial punishment. See Bell

v. Wolfish, 441 U.S. 520, 535 (1974). However, “if a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to ‘punishment.’” Id. 441 U.S. at 539. The conditions at the Wyatt Detention Facility are rationally related to the legitimate government interests of ensuring the health of the detainees by containing spread of the virus while ensuring the defendant’s appearance at trial.

Defendant also contests the Magistrate Judge’s finding of dangerousness. The record, however, supports her finding. Defendant’s criminal background stretches back many years and includes several drug and firearm offenses, significant committed time, and many probation violations. Indeed, Defendant was on probation when he committed the alleged transaction in this case and still faces charges of assault and battery with a dangerous weapon in the Worcester District Court. The violence of that open case, captured on video, is also extremely troubling.

The motion to revoke the detention order (Docket # 865) is therefore DENIED.

June 17, 2020

DATE

/s/ Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE