



remanded the case for a new trial. (Doc. No. 321). Following reversal, Lindberg asked the Court of Appeals to order his release on bond or issue a mandate forthwith. The Fourth Circuit, receiving no opposition from the United States with respect to the mandate, issued the mandate forthwith but denied Lindberg's request for immediate release. (Doc. No. 324). The Government has indicated to the Court that it intends to retry Mr. Lindberg on both counts contained in the bill of indictment.

When this matter was previously pending before the Court, Lindberg remained out of custody released on a \$100,000 unsecured bond. At his initial appearance, on April 2, 2019, Lindberg and the Government jointly recommended that Lindberg be released on an unsecured bond with a requirement that he be subject to location monitoring. Magistrate Judge David C. Keesler adopted the parties' recommendation and entered a bond with those terms. (Doc. No. 16). Four months later, Lindberg moved to have the location monitoring requirement eliminated. The Government opposed that request, and on August 13, 2019, a hearing was held before Magistrate Judge David S. Cayer. At the hearing, Lindberg made many of the same arguments that he makes in the instant motion, insisting that electronic monitoring was "impractical and [did] not add to the protection that the government. . . sought in April to ensure Mr. Lindberg's appearance." (Doc. No. 57 at 5: Transcript of Hearing). Counsel also pointed out that Lindberg's Pretrial Services Officer had no objection. (Id. at 8).

The Government urged the Court to reject the request. Counsel for the Government pointed out that, at the time, Lindberg had a private aircraft, a 214-foot ocean-going yacht registered in the Cayman Islands, and 115 foreign bank accounts, including accounts in Canada, India, Ireland, Malta, the Philippines, England, and the Cayman Islands. Counsel for the Government continued that Lindberg purchased his vessel within 30 days of being contacted by

the FBI in connection with this case and that he shortly thereafter appeared to be liquidating his assets by listing his residences in North Carolina, Key West, and Idaho for sale. (Id. at 10).

Finally, the Government indicated that Lindberg was aware of an ongoing investigation into his business practices. Counsel concluded that “Mr. Lindberg has the resources to flee and flee well, unlike the vast majority of defendants who appear in front of [the court]” (Id. at 11). Judge Cayer rejected Lindberg’s request to terminate location monitoring. (Id. at 15).

Lindberg’s bond status was addressed by the Court on two subsequent occasions. Following his conviction, the Government moved to have Lindberg immediately remanded to custody. The Court, while declining to order Lindberg remanded, allowed Lindberg to remain on bond under the same conditions set previously by the magistrate judge. (Doc. No. 277 at 1933–34: Trial Transcript). Following sentencing, the Government again requested that Lindberg be remanded to custody. (Doc. No. 281 at 76: Sentencing Transcript). The Government proffered without dispute a number of facts in support of its argument that Lindberg presented a risk of flight. (Id.). The Government proffered that Lindberg appeared to have no permanent address: “while on supervision he lived in a rented New York apartment, a rented Beverly Hills apartment,” and “on his yacht.” The Government also proffered that he had access to bank accounts “in 18 different countries: Australia, Barbados, Bermuda, Canada, Costa Rica, Denmark, France, Germany, Hong Kong, India, Ireland, Luxembourg, Malta, Netherlands, New Zealand, Philippines, Switzerland, and the UK.” In addition, the Government proffered that he had “significant relationships with individuals in Russia, Kazakhstan, Ukraine, Poland, Belarus, and elsewhere,” id., and had “given millions of dollars to women from Kazakhstan and Russia.” Finally, the Government proffered that he had both a yacht and an airplane. (Id. at 76–77).

The Court expressed that it was “a little bit concerned” about Lindberg’s potential flight, concluding “that he certainly has the wherewithal to go.” (*Id.* at 81). The Court then specifically inquired as to whether Mr. Lindberg was “on an ankle bracelet.” When advised that he was, the Court replied, “All right, Keep that on him.” (*Id.*) The Court allowed Lindberg to remain on bond under the same conditions set previously but denied the request for release pending appeal without making a finding under 18 U.S.C. § 3143(b)(1)(A) “by clear and convincing evidence” that Lindberg “is not likely to flee.” (*Id.* at 82).

## II. DISCUSSION

18 U.S.C. § 3142(c) provides that if a judicial officer finds that release on personal recognizance will not reasonably assure the appearance of the person, the court shall order release under the “least restrictive further condition or combination of restrictions that will reasonably assure the appearance of the person as required.” The Government argues, and this Court agrees, that location monitoring meets that requirement. The concerns previously expressed by the Government continue to exist. Mr. Lindberg now lives in Tampa, Florida, where, according to the Government, he has ready access to both his ocean-going yacht and airplane.<sup>1</sup> The Government has also indicated that Lindberg continues to have significant overseas business interest and assets available to him outside of the United States. As for Defendant’s contention that he has no incentive to flee because he has a growing family with an additional child on the way, the Court is not persuaded. Here, Lindberg’s knowledge of an ongoing criminal investigation into his business practices and the potential for additional criminal charges, as well as the knowledge that he was previously convicted by a jury which resulted in his going to federal prison to serve an 87-month sentence, and the recent civil action

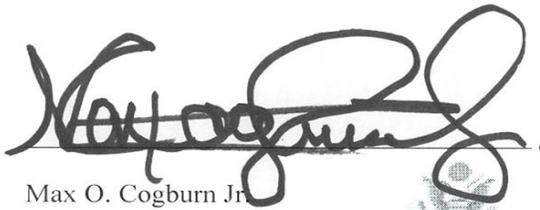
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<sup>1</sup> Defendant disputes that he has ready access to either his yacht or his plane.

filed against him by the SEC<sup>2</sup> provide an incentive for him to flee. The Court finds that location monitoring is a reasonable restriction in light of Lindberg's motivation and ability to flee. Lindberg's request for release on an unsecured bond without location monitoring is therefore denied.

**IT IS SO ORDERED.**

Signed: November 10, 2022



Max O. Cogburn Jr.  
United States District Judge

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<sup>2</sup> SEC v. Lindberg, 1:22-cv-00715 (M.D.N.C. filed Aug. 30, 2022).