

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES :
 :
 v. : CRIMINAL NO.
 :
 JERRELL A. BRESLIN : 96-202-1
 :

MEMORANDUM

Broderick, J.

April 9, 1998

On March 19, 1998, this Court denied Defendant Jerrell A. Breslin's motion for bail under 18 U.S.C. § 3143(b). The Court based its denial on its finding that Defendant had not shown by clear and convincing evidence that he was not likely to flee, as required by Section 3143(b)(A). The Court cited several factors which counseled against granting Defendant's motion for bail. These factors included the fact that Defendant had refused to fully disclose his financial status, the fact that Defendant had previously kept foreign bank accounts (and had not told his personal accountant of the existence of those accounts), and the fact that Defendant was the target of an investigation, and potentially facing indictment in the Northern District of Florida for his participation in a fraud scheme similar to the one at issue in the instant case.

On April 3, 1998, Defendant filed a motion to amend the Court's decision denying bail pending appeal. Although Defendant has produced no evidence which disputes the findings the Court made in its March 19, 1998 memorandum, Defendant apparently contends that the Court lacked a factual basis for finding that

Defendant failed to turn over his financial information, including information regarding the disposition of assets while Defendant was under investigation. Additionally, Defendant appears to contend that the Court lacked a factual basis for finding that Defendant had previously maintained foreign bank accounts.

The Court has discerned no justiciable reason why it should amend its decision, and will therefore deny Defendant's motion. However, for purposes of clarification, the Court wishes to identify the facts which it relied upon in making the above findings of fact.

With respect to the Court's finding that Defendant has refused to fully disclose his financial status, including information regarding the disposition of assets while Defendant was under investigation, the Court relied on the probation officer's presentence report which stated that Defendant "has declined to discuss his income or current assets." In addition, the Court relied upon the government's representation in its memorandum in opposition to Defendant's motion for bail pending appeal that Defendant "has not fully disclosed his own financial status, including the disposition of various assets he has disposed of as this case was under investigation."

With respect to the Court's finding that Defendant previously maintained foreign bank accounts, the Court relied on the testimony of John Mathewson, former Chairman of Guardian Bank and Trust, located in the Cayman Islands. Mr. Mathewson

testified at Defendant's sentencing hearing. The Court relied upon the following testimony given by Mr. Mathewson:

Q. Are you aware of whether Mr. Breslin had any accounts at Guardian Bank?

A. Yes.

Q. Did you in fact assist in opening those accounts?

A. I did.

Q. And can you tell the Court when the first account that Mr. Breslin opened, about when that was?

A. Approximately, April 1990...

Q. Did you, at a later time, open other accounts for Mr. Breslin?

A. Yes.

Q. And do you recall what names those accounts were in?

A. One was Credit Finance, Inc. Another was Turnberry. And another, I think, I'm not sure, was the ZL....

Q. Did Mr. Breslin also have a credit card at the bank?

A. He did....

Q. Legitimate foreign corporations. Now Credit Finance had an account, is that correct? Credit Finance had an account at your bank?

A. Actually, Credit Finance had an account, but it was not a corporate account. The numbers started with a 2. Had it been a Cayman Island corporation, it would have started with a 4, and the Credit Finance, Inc. was just-- we knew it was Jerry Breslin's account...

As evidenced above, the Court had ample factual support for its findings regarding Defendant's failure to disclose his financial status and Defendant's maintenance of foreign bank accounts.

Accordingly, the Court will deny Defendant's motion to amend the Court's decision denying bail pending appeal. The Court has discerned no justiciable reason why it should amend its March 19,

1998 decision. Under the requirements of 18 U.S.C. § 3143(b), Defendant bears the burden of showing by clear and convincing evidence that he is not likely to flee. He has failed to make this showing. Defendant has failed to produce any evidence which would tend to disprove the representations of the probation officer, the government, or John Mathewson regarding Defendant's refusal to provide full disclosure of his financial status or Defendant's maintenance of foreign bank accounts. Moreover, and perhaps most significantly, Defendant has not attempted to dispute the government's representation that Defendant is under investigation and faces indictment in the Northern District of Florida for a similar fraud scheme.

An appropriate Order follows.