

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 10 CR 290
)	Hon. Nan R. Nolan
JOSEPH SCALISE,)	
aka "Jerry")	

**GOVERNMENT’S RESPONSE TO DEFENDANT
JERRY SCALISE’S MOTION FOR RELEASE**

The UNITED STATES OF AMERICA, by and through its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, hereby submits this response to defendant Scalise’s motion for release. The government respectfully represents as follows:

Defendant Scalise, together with co-defendants Pullia and Rachel, were arrested and thereafter charged on April 15, 2010, in an indictment with conspiring to commit robbery, in violation of Title 18, United States Code, Section 1951. R. 8. The government sought the detention of all three defendants prior to trial.

In support of its detention motion as to Scalise, the government argued that all four statutory factors enumerated in the Bail Reform Act, *see* 18 U.S.C. § 3142(g), favored detention on grounds of dangerousness and risk of flight. 18 U.S.C. § 3142(e)(1). First, the government argued that the nature and seriousness of the offense weighed in favor of detention. The charged offense involved a conspiracy to violently rob armed guards during the guards’ regular Thursday bulk cash pick-ups from the First National Bank of LaGrange, Illinois (the “Target Bank”). The evidence establishes that defendant Scalise, along with

defendants Pullia and Rachel – three men with well-documented, extensive criminal histories reaching back to the 1960s – were intent on using three loaded firearms (including a Mac 11), three black ski masks, mace and goggles, as well as stolen “work cars,” to rob the armored car and steal the Target Bank’s money. After the defendants’ arrest, the government located a garage rented by Scalise, containing two stolen vehicles, three firearms, and three masks for use in connection with the robbery of the Target Bank. Additionally, the men specially modified one of the vehicles by adding a gun port. The gun port would permit them to shoot out of the van should armored car guards or law enforcement approach them or attempt to apprehend them. The defendants repeatedly stated their willingness to use violence to carry out their criminal objectives.

Second, the government also argued that the weight of the evidence against defendant Scalise was overwhelming. The evidence included physical surveillance, telephone records, court-authorized interceptions of oral communications, and evidence seized after the defendants’ arrest (including the stolen “work cars” as well as three firearms and masks found in the garage rented by Scalise under a false alias).

Third, the government argued that the history and characteristics of defendant Scalise also favored detention. Scalise has multiple prior convictions for serious drug offenses and crimes of violence, including his 1980 conviction arising from the robbery of Graff Jewelers in London, England (he served approximately 13 years in custody), as well as his prior conviction for conspiring to possess with intent to distribute a controlled substance in 1998 (he received a sentence of 108 months for this offense). Indeed, Scalise’s supervised release for the narcotics offense terminated in March 2009 – the very same month one of the “work

cars” found in the garage rented by Scalise was stolen. Scalise’s criminal activity therefore continued unabated shortly after he was released from custody.

Finally, the government also argued that the defendants – including Scalise – posed a danger to the community. The evidence vividly demonstrated that the defendants – in addition to their multiple prior convictions for violent crimes – planned to commit at least *two* violent robberies in the days before they were arrested. They planned to enter a woman’s residence – possibly as she was headed to her bedroom – at night, with plans to hurt her if she did not cooperate. Additionally, the men had at their disposal three firearms, handcuffs, mace, a van outfitted with a gun port, and other tools suitable for use in an armed robbery.

After hearings on April 14, 2010 and April 21, 2010, this Court denied the government’s motion to detain defendants Pullia and Rachel pending trial. Moreover, this Court indicated that it would be willing to consider setting conditions of release for defendant Scalise in the event he was able to post additional security for a bond.

On August 9, 2010, defendant Scalise filed the instant Motion, in which he proposes additional property to secure his bond.¹ The government continues to oppose the release of defendant Scalise for the reasons provided above and at the initial hearings before this Court on April 14, 2010 and April 21, 2010. In addition, the government provides the following additional information concerning the history and characteristics of defendant Scalise:

¹ In his Motion, Scalise submits that the total equity available in the three properties will be posted is \$686,200. However, the government has not yet received an appraisal for the Hawaii property. This property was ascribed a value of \$365,200, based on a Hawaii property tax assessment. The government has asked the defendant to supply an appraisal.

**Scalise Was a Member of the “Wild Bunch,”
a Chicago Outfit Crew that Planned and Committed Multiple Murders**

Defendant Scalise was a member of a Chicago Outfit crew known as the “Wild Bunch,” which was tasked with planning and carrying out multiple murders on behalf of the Chicago Outfit. Specifically, in 2007, the government tried various high-ranking members of the Chicago Outfit in the case captioned *United States v. Calabrese*, 02 CR 1050 (N.D. Ill.) (Zagel, J.), commonly known as the “Family Secrets” case. The government’s evidence at trial included the testimony of Nicholas Calabrese, a made member of the Chicago Outfit. Nicholas Calabrese admitted to his personal participation in major crimes on behalf of the Chicago Outfit, including more than a dozen Outfit murders, and entered into a cooperation agreement with the government. That agreement specified that (i) the State’s Attorneys for Cook, Will and DuPage County would not prosecute him for the murders identified in his plea agreement; (ii) the government would apply for an order of use immunity with respect to his testimony at trial against his co-defendants; and (iii) the government would move the sentencing court to depart from the applicable guideline range, but would make no specific recommendation concerning the sentence that should be imposed on Nicholas Calabrese.

Based on the testimony of Nicholas Calabrese, a jury convicted multiple high-ranking Outfit members for their personal participation in a series of Outfit-related murders. Because of his extraordinary cooperation with the government and his truthful testimony concerning a series of organized crime murders, Judge James B. Zagel departed from the applicable guideline range, and sentenced Nicholas Calabrese to a term of imprisonment of twelve years and four months.

During his trial testimony, Nicholas Calabrese identified a group of individuals that operated as a “crew” within the Chicago Outfit, who were commonly known as the “Wild Bunch.” Nicholas Calabrese testified that the crew was composed of the following individuals: Harry Aleman,² Jerry Scarpelli,³ Jerry Scalise (the defendant in this case), Tony Borsellino and William “Butch” Petrocelli,⁴ and that they reported to Outfit boss Joe Ferriola. Tr. 2398-99.⁵ Nicholas Calabrese’s testimony concerning Scalise’s membership in the Wild Bunch was confirmed by the testimony of his brother, prolific Outfit hitman Frank Calabrese Sr.,⁶ who went to trial and testified in his own defense. Tr. 6089-90. When asked to identify the members of the Wild Bunch during direct examination by his own defense attorney, Frank Calabrese Sr. named William “Butchie” Petrocelli, Harry Aleman, Tony Borsellino,

² Harry Aleman was a prolific Outfit hitman who was convicted in State court in 1997 of the murder of Billy Logan and was sentenced to a term of imprisonment of 300 years. Aleman had previously been acquitted of this very same murder – but only after the Outfit successfully bribed the State court judge presiding over the case. *See Aleman v. Sternes*, 320 F.3d 687, 688 (7th Cir. 2003); *Aleman v. Circuit Court of Cook County*, 138 F.3d 302, 304 (7th Cir. 1998).

³ Jerry Scarpelli was another Outfit member who was arrested by the Federal Bureau of Investigation on or about July 16, 1988 for various offenses. After his arrest, he admitted to committing major crimes on behalf of the Outfit, including murder. Scarpelli subsequently committed suicide.

⁴ Petrocelli was an Outfit member who was murdered by fellow Outfit members on or about December 30, 1980.

⁵ References herein to “Tr. ___” are to the trial transcript in *United States v. Calabrese*, 02 CR 1050 (N.D. Ill.) (Zagel, J.).

⁶ The Family Secrets jury found beyond a reasonable doubt that Calabrese Sr. committed first degree murder seven times, and Judge Zagel found that the government had proved by clear and convincing evidence that he had personally participated in an additional six murders – including the murder of Petrocelli.

James Inendino (referred to as “Jimmy I”),⁷ Scarpelli and defendant Scalise: “There was – yeah, there was Scav – his name was Scalise, I think.” Tr. 6089-90.

The evidence during the Family Secrets trial established that William and Charlotte Dauber were murdered by members of the Chicago Outfit. The evidence at trial (including recorded conversations of Frank Calabrese Sr.) – and the jury’s verdict – also established that Frank Calabrese Sr. personally participated in the murder of the Daubers. Calabrese Sr. did not commit this murder alone. Nicholas Calabrese testified that the night before the Daubers were murdered, Frank Calabrese Sr. told Nicholas Calabrese that the Wild Bunch had not been successful in its efforts to murder the Daubers, and so Frank Calabrese Sr. was sent to “light the fire under their [the Wild Bunch’s] rear ends.” Tr. 2563-64. As Nicholas Calabrese put it, “they [the Wild Bunch] were taking a long time trying to kill these people [William and Charlotte Dauber].”). *Id.* With Frank Calabrese Sr.’s participation and assistance, the Daubers were killed on or about July 2, 1980. Moreover, in a recorded conversation dated March 27, 1999, that was played for the jury during the Family Secrets trial, Frank Calabrese Sr. confirmed that he participated in the murder of the Daubers with individuals outside of his own crew, thereby corroborating Nicholas Calabrese’s testimony concerning the involvement of the Wild Bunch in the murders. Tr. 1689.

Sam Annerino, a Chicago organized crime figure, was murdered by the Outfit in July 1977. Nicholas Calabrese testified that he and others were initially tasked to commit this

⁷ As noted in earlier filings in this case, Scalise was observed meeting with Inendino on April 6, 2010, in connection with the planning of the robbery of the LaPietra residence, which further corroborates the criminal nature of their association.

murder, however, he was advised by his brother, Frank Calabrese Sr., that Sam Annerino had been murdered by the Wild Bunch. Tr. 2628-32.

Nicholas Calabrese further testified to two other murders that the Wild Bunch had been tasked to commit, but which were ultimately committed by Nicholas Calabrese and other Outfit members. Specifically, Nicholas Calabrese testified that he personally participated in the Outfit-related murder of Paul Haggerty, who was killed on or about June 24, 1976. However, Nicholas Calabrese testified that when he first became involved in the effort to murder Haggerty, he was informed by his brother, Frank Calabrese Sr., that the Wild Bunch had also been working on trying to murder Haggerty. Tr. 2506. In addition, Nicholas Calabrese also testified that the Wild Bunch targeted Michael Cagnoni for murder as well, but had not been successful in carrying out the murder. Tr. 2597-98. The Wild Bunch was called off from participating in this murder once Frank Calabrese Sr. and others, including Nicholas Calabrese, were ordered to carry out this Outfit murder. Tr. 2599. On or about June 24, 1981, Michael Cagnoni was blown up as he was driving his vehicle.⁸

Defendant Scalise has been captured on tape in the current case planning the violent robbery of the LaPietra residence and of an armored car. He has multiple prior convictions, which include robbery (accomplished with the use of a grenade) and a serious drug offense. He possessed three firearms in connection with the instant offense – even though he has

⁸ Members of the Wild Bunch – including Scalise – are believed to have been involved in other murders as well. For example, it is not sheer coincidence that the body of Michael Oliver, the owner of an adult book store who was murdered in 1979, was found buried within very close proximity to defendant Scalise's former residence, near the intersection of Route 83 and Bluff Road in DuPage County, Illinois.

multiple felony convictions. He is skilled in using aliases, and employed a false name and identification documents in connection with the charged offense.⁹ Finally, the evidence above demonstrates that Scalise was part of a crew of Outfit killers that planned and participated in multiple murders on behalf of the Outfit. He is a life-long violent criminal who now faces what is effectively a life sentence. Scalise is a danger to the community and no conditions can be fashioned to ensure its safety, nor can conditions be fashioned to ensure his appearance at subsequent court proceedings. The Motion should be denied.

⁹ A fake driver's license (bearing Scalise's photograph), together with a fake social security card and Medicare card were recovered at the time of Scalise's arrest. Scalise used this false identity to rent the garage housing the "work cars" and firearms.

WHEREFORE, the government respectfully requests that the Court enter an order (i) denying the Motion; and (ii) granting the government such other and further relief as is just and proper.

Dated: August 16, 2010
Chicago, Illinois

Respectfully submitted.

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CERTIFICATE OF SERVICE

Amarjeet S. Bhachu, an Assistant United States Attorney assigned to the instant matter, hereby certifies that the attached GOVERNMENT'S RESPONSE TO DEFENDANT JERRY SCALISE'S MOTION FOR RELEASE was served on August 16, 2010, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

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