

The defendant's legal status in the United States is predicated on deception. She not only has deep ties to her country (with which the United States has no extradition treaty) but actually works on behalf of the Russian government. FBI surveillance over the past week has confirmed that Butina has access to funds and an intention to move money outside of the United States. Butina's closest tie to the United States is the individual identified as U.S. Person 1 in the Indictment, but she appears to treat that relationship as simply a necessary aspect of her activities. Her last tie to the District of Columbia—her apartment lease—ends on July 31, 2018, and there were boxes packed in her apartment consistent with a move at the time of her arrest on July 15, 2018. All of Butina's known personal ties, save for those U.S. persons she attempted to exploit and influence, reside in the Russian Federation.

Because Butina has been exposed as an illegal agent of Russia, there is the grave risk that she will appeal to those within that government with whom she conspired to aid her escape from the United States. In sum, the Court should grant the government's motion to detain Butina pending trial.

Principles Governing Requests for Detention

Under the Bail Reform Act, courts consider the following factors in determining whether some condition, or combination of conditions, will reasonably assure the defendant's appearance at trial and pre-trial proceedings: the nature and circumstances of the charged offenses; the weight of the evidence against the defendant; the history and characteristics of the defendant; and the nature and seriousness of the danger to any person or to the community that would be posed by the defendant's release. 18 U.S.C. § 3142(g); *see United States v. Bikundi*, 47 F. Supp. 3d 131, 133 (D.D.C. 2014); *United States v. Hong Vo*, 978 F. Supp. 2d 41, 43 & n.1 (D.D.C. 2013).

At a detention hearing, the government may present evidence by way of a proffer. See *United States v. Smith*, 79 F.3d 1208, 1209-10 (D.C. Cir. 1996); *United States v. Roberson*, No. 15-cr-121, 2015 WL 6673834, at *1 (D.D.C. Oct. 30, 2015). When the government seeks to detain a defendant on the ground that the defendant is a risk of flight pursuant to 18 U.S.C. § 3142 (f)(2)(A), the government must demonstrate the defendant's flight risk by a preponderance of the evidence. *United States v. Xulam*, 84 F.3d 441, 442 (D.C. Cir. 1996).

Factual Proffer of the Evidence Supporting the Charges

The conduct charged in the Indictment arises from the defendant's acting as an agent of the Government of the Russian Federation. The United States proffers the factual allegations as set out in the affidavit in support of a criminal complaint, which is attached hereto as Exhibit A and incorporated herein.

In sum, the defendant engaged in a years-long conspiracy to work covertly in the United States as an undeclared agent of the Russian Federation in order to advance the interests of her home country. The plan was calculated, patient, and directed by the Russian Official. The defendant's covert influence campaign involved substantial planning, international coordination, and preparation. The plan for Butina also required, and she demonstrated, a willingness to use deceit in a visa application to move to the United States and bring the plan to fruition.

Additional Information Supporting Detention

1. Butina Appears to Have Ties to the Russian Intelligence Services

The FBI has uncovered evidence during the course of executing several search warrants that, during the course of her deployment to the United States, Butina was in contact with officials believed to be Russian intelligence operatives. First, the defendant maintained contact information for individuals identified as employees of the Russian FSB, the *Federal'naya sluzhba bezopasnosti*

Rossiyskoy Federatsii, the main successor agency to the USSR's Committee of State Security, the KGB. For example, in the defendant's electronic contact list, there was an email account listed at an FSB-associated domain. Another document uncovered during the execution of a search warrant contained a hand-written note, entitled "Maria's 'Russian Patriots In-Waiting' Organization," and asking "How to respond to FSB offer of employment?" Based on this and other evidence, the FBI believes that the defendant was likely in contact with the FSB throughout her stay in the United States. Additionally, FBI surveillance observed Butina in the company of a Russian diplomat in the weeks leading up to that official's departure from the United States in March 2018. That Russian diplomat, with whom Butina was sharing a private meal, was suspected by the United States Government of being a Russian intelligence officer. The concern that Butina poses a risk of flight is only heightened due to her connection to suspected Russian intelligence operatives.

Moreover, like any sovereign nation, the Russian Federation has the ability to remove, or exfiltrate, its citizens from foreign countries. And due to international law and treaty restrictions, law enforcement would be prevented from stopping Butina from entering the Russian Embassy. Under these circumstances, a passport would not be necessary for Butina to depart the jurisdiction of the United States. Accordingly, even with a full combination of the most restrictive measures, for example, (i) house arrest, (ii) electronic monitoring, (iii) high-intensity monitoring, (iv) any monetary bond or agreement to forfeit property, (v) retained passport, and (vi) third party custodian, the defendant need only seek refuge in a diplomatic facility, well before Pretrial Services would ever be alerted, let alone be able to respond. Simply put, neither the Court nor law enforcement could stop her or has any recourse or remedy, in the event Butina decided to seek safe harbor in a diplomatic facility.

2. Butina Was Considered a Covert Russian Agent by the Russian Official

FBI agents have also discovered messages between Butina and the Russian Official in which the Russian Official likened Butina to one member of a ring of Russian covert agents who were arrested in 2010. Specifically, in March 2017, after a series of media articles were published about Butina, the following conversation ensued:

Russian Official: Good morning! How are you faring there in the rays of the new fame?[] Are your admirers asking for your autographs yet? You have upstaged Anna Chapman. She poses with toy pistols, while you are being published with real ones. There are a hell of a lot of rumors circulating here about me too! Very funny!

Butina: It is curious that only our liberal media published the translation of the article. Yesterday I was pressing for an interview to Komsomolka but they are silent. It was probably our [people] that stood up for me.

Russian Official: I only saw it in the Echo [of Moscow] Blog and on the InoSMI site. What do you expect from the liberals anyway?!

Butina: It's the other thing that is important: evidently, there is an Order not to touch us. I believe it is a good sign.

Russian Official: For now – yes, but should things shift, then we are guaranteed a spot on the list of ‘agents of influence.’ . . .

Butina: It's better to keep a low profile now. For some time. You probably got in trouble because of that nasty leak? Sorry. . . .

(Translated from Russian.)

The FBI believes that in this communication, the Russian Official was referring to Anna Vasilyevna Chapman, a Russian intelligence agent who gained notoriety after being arrested in the United States in 2010. At the time of her arrest, Chapman was accused of acting on behalf of the Russian Federation's external intelligence agency, the *Sluzhba vneshney razvedki* (SVR). Chapman pleaded guilty to a charge of conspiracy to act as an agent of a foreign

government and she and the other Russians were deported to Russia on July 8, 2010, as part of a Russia – U.S. prisoner swap.

The Twitter direct messages between Butina and the Russian Official also contain multiple references to Butina acting covertly, such as the following exchange, from October 5, 2016, after the Russian Official asked about the status of the “Russia-USA friendship society”:

BUTINA: It’s not alive. We are currently “underground” both here and there. Now, private clubs and quite [sic] influence on people making decisions is the trend. No publicity.

BUTINA: Advisor – is the profession of the current day. Even a secret advisor. Right now the Administration here is flexible – and there is the idea, so that the right thoughts would dominate.

The following exchange occurred just a week later, on October 12, 2016:

BUTINA: Don’t do that! Take it easy on yourself. Important things are ahead of us!

RUSSIAN OFFICIAL: In this sense, you probably shouldn’t be going as an observer from Russia. The risk of provocation is too high and the “media hype” which comes after it.

BUTINA: I agree! I did not even plan on it without you! Only incognito! Right now everything has to be quiet and careful.

(Translated from Russian.)

On January 20, 2017, in response to a photo Butina sent to the Russian Official of her near the U.S. Capitol on Inauguration Day, the Russian Official responded, “You’re a daredevil girl! What can I say![]” Butina responded, “Good teachers![]”

Based on the Russian Official’s comments, the Court should conclude the defendant is considered to be on par with other covert Russian agents. Her risk of flight under these circumstances increases immeasurably.

3. Butina Has Ties to the Russian Oligarchy

In addition to her ties to the Russian government, there is evidence that Butina is well-connected to wealthy businessmen in the Russian oligarchy. Her Twitter messages, chat logs, and emails refer to a known Russian businessman with deep ties to the Russian Presidential Administration. This person often travels to the United States and has also been referred to as her “funder” throughout her correspondence; he was listed in Forbes as having a real-time net worth of \$1.2 billion as of 2018. Immediately prior to her first trip to the United States in late 2014, Butina engaged in a series of text messages with a different wealthy Russian businessman regarding budgets for her trip to the United States and meetings with the aforementioned “funder.” Individuals such as these wealthy businessmen could, through their wealth and influence, be in a position to offer a safe harbor for Butina.

4. Butina Proposed Applying for a U.S. Student Visa as Part of the Operation

The FBI has uncovered electronic communications revealing Butina’s involvement in the planning of the covert influence operation with U.S. Person 1. This series of communications included a discussion about how Butina could best enter and remain in the United States. Butina chose a student visa from a range of options for her ultimate application, but not before a lengthy discussion of the risks associated with traveling to the United States repeatedly on a tourist visa. The FBI has discovered text messages and emails between U.S. Person 1 and Butina in which Butina would routinely ask U.S. Person 1 to help complete her academic assignments, by editing papers and answering exam questions. In other words, although she attended classes and completed coursework with outside help, attending American University was Butina’s cover while she continued to work on behalf of the Russian Official.

It is not uncommon for agents of a foreign government to assume cover occupations, including posing as students, while operating on behalf of the foreign power. It is notable that Butina stated, under penalty of perjury, that she was no longer employed by the Russian Official at the time she applied for her student visa. Butina likely only admitted her affiliation with the Russian Official at all because she had been previously publicly linked with that Russian Official in media reports. Her false attestation on the visa application was premediated and consistent with her actions being part of a Russian operation.

5. Butina’s “Tie” to the United States is a Duplicitous Relationship

During the course of this investigation, the FBI has determined that Butina gained access through U.S. Person 1 to an extensive network of U.S. persons in positions to influence political activities in the United States. Butina, age 29, and U.S. Person 1, age 56, are believed to have cohabitated and been involved in a personal relationship during the course of Butina’s activities in the United States. But this relationship does not represent a strong tie to the United States because Butina appears to treat it as simply a necessary aspect of her activities. For example, on at least one occasion, Butina offered an individual other than U.S. Person 1 sex in exchange for a position within a special interest organization. Further, in papers seized by the FBI, Butina complained about living with U.S. Person 1 and expressed disdain for continuing to cohabit with U.S. Person 1.

6. Butina Was Taking Steps to Leave the Washington, D.C., Area

Finally, in the days leading up to her arrest, Butina was observed by the FBI taking steps consistent with a plan to leave the Washington, D.C., area and possibly the United States. First, Butina applied for a B1/B2 visa, which would allow her to travel to and from the United States. On July 14, 2018, Butina and U.S. Person 1 were followed to a U-Haul truck rental facility where

they inquired about renting a moving truck and purchased moving boxes. When agents executed a warrant at their Washington, D.C., apartment on July 15, 2018, the defendant's belongings were packed and a letter was discovered notifying the landlord that the lease was to be terminated on July 31, 2018.

In addition, on July 12, 2018, Butina and U.S. Person 1 were observed entering a bank in Washington, D.C., and sending an international wire transfer in the amount of \$3,500 to an account in Russia. Although the government does not proffer that it knows the purpose of that transfer at this point, the amount shows her access to funds, and the location of the recipient underscores her ties to Russia.

Even if Butina were only trying to leave the immediate Washington, D.C., area, her sole real tie to the United States at all is U.S. Person 1, who, as the affidavit in support of the complaint demonstrates, was instrumental in aiding her covert influence operation, despite knowing its connections to the Russian Official.

No Condition or Combination of Conditions Will Reasonably Assure the Defendant's Appearance in Court

1. Nature and Circumstances of the Offense(s) Charged

The circumstances of the offenses charged in this case overwhelmingly support detention. By its very nature, this case involves charges against a foreign national whose demonstrated allegiance is to Russia. Her strong incentive is to retreat to Russia where she will never be required to submit to the jurisdiction or orders of a United States court.

The charges in the Indictment are properly characterized as serious due to the possible statutory penalties; the duration and complexity of the criminal conduct; and the fact that the charges include multiple layers of deceit, including misleading statements to the U.S. State Department. *See United States v. Anderson*, 384 F. Supp. 2d 32, 39 (D.D.C. 2005) (defendant's

“historical unwillingness to be forthright in his dealings with government officials” relevant to flight risk).

The possible maximum terms of imprisonment that the defendant faces upon conviction provide an incentive to flee. *See United States v. Townsend*, 897 F.2d 989, 995 (9th Cir. 1990). The defendant faces ten years of imprisonment on the charge of a violation of 18 U.S.C. § 951 and five years of imprisonment for violating 18 U.S.C. § 371. Courts have repeatedly held that with serious charges and the possibility of considerable punishment comes “a substantial incentive to flee the United States.” *See Hong Vo*, 978 F. Supp. 2d at 43 (finding detention appropriate for defendant facing stiff penalties for bribery and visa fraud). Simply put, Butina has no incentive to appear before this Court and submit to the jurisdiction of the United States.

2. The Weight of Evidence Against the Defendant

Courts also consider the weight of the evidence in assessing the risk of flight. 18 U.S.C. § 3142(g)(2). The weight of the evidence against the defendant is substantial. The FBI has acquired email and other electronic evidence documenting Butina’s work on behalf of Russia, including taskings, reporting, and attempts to be “incognito.” The evidence establishes that Butina’s purpose for coming to the United States was to work on behalf of the Russian Federation. Further, numerous witnesses will testify about the influence activities described in the complaint.

3. The History and Characteristics of the Defendant

The defendant’s history and characteristics likewise support pretrial detention. Butina is a Russian citizen with no meaningful ties to the United States; she has every reason to flee this prosecution. Butina entered the United States with the express purpose of working as part of a covert Russian influence campaign and did not disclose that fact—not on her visa application and

not to the Attorney General. The Court should have no confidence that she would abide by any conditions of release, and the Court has no recourse to assure her appearance.

For obvious reasons, courts routinely find a serious risk of flight where, as here, a foreign-national defendant has few or no ties to the United States. *See, e.g., United States v. Kachkar*, 701 F. App'x 744, 747 (11th Cir. 2017); *United States v. Frater*, 356 F. App'x 133, 135 (10th Cir. 2009); *United States v. Hussain*, 6 F. App'x 50, 51-52 (1st Cir. 2001); *United States v. Townsend*, 897 F.2d 989, 996 (9th Cir. 1990).

Conclusion

The defendant is a foreign agent who loyally acted on behalf of the Russian government. Based on the nature of the charges and the weight of the proffered evidence against the defendant, no condition or combination of conditions will reasonably assure the appearance of the defendant at trial. Under the factors set forth in 18 U.S.C. § 3142(g), the government has demonstrated by a preponderance of the evidence that the defendant is a flight risk.

For the foregoing reasons, as well as those that the government will demonstrate at any hearing on this matter, the government requests that the Court order the pre-trial detention of the defendant.

Respectfully submitted,

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