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Attorneys for Plaintiff  
United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 10-00384 LEK
	)	
Plaintiff,	)	GOVERNMENT'S MEMORANDUM IN
	)	OPPOSITION TO DEFENDANT'S
vs.	)	SECOND MOTION TO REOPEN
	)	DETENTION HEARING AND FOR
ROGER CUSICK CHRISTIE, (01)	)	RELEASE ON BOND; CERTIFICATE
	)	OF SERVICE
Defendant.	)	
	)	DATE: June 5, 2012
	)	TIME: 10:00 a.m.
	)	JUDGE: Kevin S. C. Chang

GOVERNMENT'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S SECOND MOTION TO REOPEN DETENTION HEARING AND FOR RELEASE ON BOND

**I. INTRODUCTION**

On May 24, 2012, defendant ROGER CUSICK CHRISTIE, (hereinafter "defendant"), through his attorney, filed a second motion to reconsider Magistrate Judge Chang's order of July 16, 2010 denying release on conditions and imposing pretrial

detention. For the reasons stated below, this motion should also be denied.

**II. STATEMENT OF FACTS**

On June 24, 2010, a grand jury in the District of Hawaii returned an indictment against the defendant and his thirteen (13) co-defendants. In the Indictment, the fourteen (14) defendants were charged with various marijuana manufacture and trafficking offenses as follows:

-Leaders of the THC Ministry/Hawaii Cannabis Ministry (hereinafter "Ministry"):

(01) **ROGER CUSICK CHRISTIE** (hereinafter "Christie");

(02) **SHERRYANNE L. ST. CYR** (hereinafter "St. Cyr");<sup>1</sup>

-Growers at Christie's intended "Ministry farm", 2009:

(03) **SUSANNE LENORE FRIEND** (hereinafter "Friend");

(04) **TIMOTHY M. MANN** (hereinafter "Mann");<sup>2</sup>

-Other persons who supplied the Ministry with processed marijuana and/or grew marijuana plants for Christie in 2009:

(05) **RICHARD BRUCE TURPEN** (hereinafter "Turpen");

(06) **WESLEY MARK SUDBURY** (hereinafter "Sudbury");

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<sup>1</sup> Co-defendant St. Cyr is Christie's girlfriend and business partner at the Ministry. Both reside together at Christie's condominium apartment (#312, 360 Kauila St., Hilo, HI).

<sup>2</sup> Defendants Friend and Mann are husband and wife, residing at their farm/residence in Honokaa, HI.

(07) **DONALD JAMES GIBSON** (hereinafter "Gibson");

(08) **ROLAND GREGORY IGNACIO** (hereinafter "Ignacio");

(09) **PERRY EMILIO POLICICCHIO** (hereinafter "Policicchio");

(10) **JOHN DEBAPTIST BOUEY, III** (hereinafter "Bouey");

(11) **MICHAEL B. SHAPIRO**, also known as "Dewey" (hereinafter "Shapiro");

(12) **AARON GEORGE ZEEMAN** (hereinafter "Zeeman");

-Two former employees of the Ministry:

(13) **VICTORIA C. FIORE** (hereinafter "Fiore"),

(14) **JESSICA R. WALSH**, also known as "Jessica Hackman" (hereinafter "Walsh").

As averred in the "Ways and Means" provision in Count 1 of the Indictment (charging conspiracy to manufacture, distribute, and possess with intent to distribute 100+ marijuana plants):

Conducting his operation as the 'THC Ministry' or 'Hawaii Cannabis Ministry' (hereinafter 'Ministry') located in Hilo, Hawaii, Christie, with the assistance of St. Cyr, engaged in the illegal manufacture, distribution, and sale of marijuana. Christie and St. Cyr had several employees (as Fiore and Walsh) who worked at the Ministry's business premises and assisted in the distribution and sale of marijuana.

In order to obtain his marijuana sales inventory, Christie had several suppliers, as well as other persons growing marijuana for him, on the Island of Hawaii. During 2009, Christie's marijuana suppliers and other persons growing marijuana for him included Turpen, Sudbury, Gibson, Ignacio, Policicchio, Bouey, Shapiro, and Zeeman.

Sometime in 2009, Christie also recruited Friend and Mann to start up a marijuana cultivation operation for the Ministry

on the Island of Hawaii; the plan was for all of Friend and Mann's harvested marijuana to be provided to the Ministry. As of July 22, 2009, Friend and Mann had approximately 284 marijuana plants under cultivation.

Christie is currently charged in Counts 1, 2, and 3 of the Indictment with felony marijuana offenses involving 100+ marijuana plants.<sup>3</sup> If convicted, Christie faces a statutory imprisonment term of 5 - 40 years for each of these counts. As such, and given the Grand Jury's return of the Indictment herein, the rebuttable presumption in favor of pretrial detention set forth in the Bail Reform Act is fully applicable to Christie. See 18 U.S.C. § 3142(e)(3)(A).<sup>4</sup>

In addition, in the "Forfeiture Allegation" of the Indictment, notice has been given of the United States' intent to seek forfeiture of Christie's residence (#312, 360 Kauila St., Hilo, HI), as well as of \$21,494 in U.S. currency found in his joint possession with St. Cyr, as proceeds of the alleged

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<sup>3</sup> Counts 2 and 3 allege the 284 marijuana plant cultivation operation which law enforcement officers discovered at the Friend-Mann residence on July 22, 2009.

<sup>4</sup> A Federal Grand Jury's return of an Indictment, based upon probable cause, will independently trigger the Bail Reform Act's rebuttable presumption. United States v. Vargas, 804 F.2d 175 (1<sup>st</sup> Cir. 1986), United States v. Contreras, 776 F.2d 51 (2d Cir. 1985), United States v. Suppa, 799 F.2d 115 (3d Cir. 1986), United States v. Hurtado, 779 F.2d 1467 (11<sup>th</sup> Cir. 1985).

offenses and/or used to facilitate the commission of said crimes, pursuant to 21 U.S.C. § 853.<sup>5</sup>

Shortly after his arrest on July 8, 2010, Magistrate Judge Chang held a pretrial detention hearing and ordered Christie's pretrial detention (see his Detention Order entered July 16, 2010), which ruling Christie appealed to the District Judge. Senior District Judge Kay was assigned to hear Christie's appeal, and after extensive briefing by both sides and oral argument, Judge Kay affirmed the pretrial detention ruling in his written Order entered July 20, 2010. Christie subsequently appealed the District Court's detention ruling to the Ninth Circuit. In its Order entered August 5, 2010 in C.A. #10-10355, the Ninth Circuit affirmed, holding that "[t]he District Court correctly found that the government has met its burden of showing, by clear and convincing evidence, that 'no condition or combination of conditions will reasonably assure ... the safety of ... the community', 18 U.S.C. 3142(e), and that the appellant therefore poses a danger to the community". See Ninth Circuit Order at 2.

Contrary to Christie's instant moving papers, there are no significantly changed circumstances which would warrant his

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<sup>5</sup> This \$21,494 consisted of \$9,096 found in a bedroom safe in Christie's residence on March 10, 2010, and an additional \$12,398 found in a safety deposit box rented by Christie and St. Cyr at the Hilo branch of American Savings Bank on the same date (3/10/10).

pretrial release on any conditions at this time, and for the reasons previously found by District Judge Kay, that detention ruling should remain in effect at the current time.

**III. ARGUMENT**

**Defendant Has Failed to Establish the Existence of Any Changed Circumstances that Would Warrant Modification.**

The Bail Reform Act of 1984 authorizes the Court to set conditions of release, and in some instances, to detain defendants without bond in order to reasonably assure the safety of any other person and the community. 18 U.S.C. § 3142(c)(1)(B). In setting such conditions, the Supreme Court has recognized that "the government's regulatory interest in community safety can, in some appropriate circumstances, outweigh an individual's liberty interest." United States v. Salerno, 481 U.S. 739, 748 (1987). In Salerno, the Supreme Court upheld the Bail Reform Act's provisions allowing for pretrial detention based on a showing of future dangerousness against challenges that they violated due process and the Eighth Amendment. Id.

Under 18 U.S.C. §§ 3142(c)(3) and 3142(f)(2), the Court may subsequently modify conditions of release if it finds that there was information not known at the time of the bond hearing which materially affects the flight risk of the defendant or the danger he represents to any other person and the community. Here, Christie has proffered as changed circumstances the following: 1) his trial date is now January 23, 2013; 2) his

elderly mother is now receiving hospice care and is gravely ill; and 3) he is now married to his co-defendant, Sherry-Anne St. Cyr. None of these circumstances make him any less of a flight risk or danger to the community and cannot form the basis for reversing the previously affirmed order of detention.

As to the January 23, 2013 trial date, the Court is and should be aware of the following. The last set of continuances from the previously scheduled trial date of February 28, 2012 were occasioned by Christie, and his co-defendant, Sherry-Anne St. Cyr asking for and being granted new counsel. St. Cyr had Dana Ishibashi, Esq., replaced by Jeffrey Arakaki, Esq., on November 30, 2011, and then had Jeffrey Arakaki, Esq., replaced by Lynn Panagakos, Esq., on February 28, 2012. Christie had Alexander Silvert, Esq., replaced by Thomas Otake, Esq., on March 23, 2012. Both Christie and St. Cyr stipulated to the continuance to January 23, 2013 to give their new attorneys sufficient time to prepare for trial. Christie should not now be heard to complain about the new trial date or raise it as grounds for release on bond.

That Christie's mother is gravely ill is unfortunate but it does not make him less of a danger to the community or less of a flight risk. Unless he has lost his phone privileges, he should be able to speak to her, and if it becomes necessary, he could always request a furlough. Further, even assuming for

the sake of argument that this circumstance makes the defendant less of a flight risk or danger to the community, it is only temporal. Once the defendant's mother passes, so will any of its beneficial effects.

Finally, Christie's marriage to his co-defendant, Sherry-Anne St. Cyr, does not make him less of a flight risk or danger to the community. He and St. Cyr were the leaders of the ministry and the leaders of the charged conspiracy to manufacture and distribute marijuana. Putting them back together and increasing the amount of their interaction would likely increase the danger to the community and the risk of flight rather than reduce it.

**IV. CONCLUSION**

Wherefore, based on the foregoing, the Government respectfully submits that Defendant ROGER CHRISTIE's second motion to reopen detention hearing and for release on bond should be denied.

DATED: June 4, 2012, Honolulu, Hawaii.

Respectfully submitted,

FLORENCE T. NAKAKUNI  
United States Attorney  
District of Hawaii

By /s/ Jonathan M. F. Loo  
JONATHAN M. F. LOO  
Assistant U.S. Attorney



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FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 10-00384 LEK
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Plaintiff,	)	CERTIFICATE OF SERVICE
	)	
vs.	)	
	)	
ROGER CUSICK CHRISTIE, (01)	)	
	)	
Defendant.	)	
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served Electronically through CM/ECF:

THOMAS OTAKE, ESQ.  
[thomas@otakelaw.com](mailto:thomas@otakelaw.com)

Attorney for Defendant  
ROGER CUSICK CHRISTIE

DATED: June 4, 2012, Honolulu, Hawaii.

/s/ Erica Wong  
U.S. Attorney's Office  
District of Hawaii