

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

UNITED STATES OF AMERICA :

v. : **Case No. 1:19-cr-57(LO)**

SANG HUYNH :

Defendant. :

MEMORANDUM SUPPORTING MOTION FOR A REASONABLE BOND

Under 18 U.S.C. §3142, there is a basis to fashion conditions of release.

I. BACKGROUND FOR RELEASE

1. Mr. Huynh would, on release, be living with his Brother.
2. His Family and Friends are supportive of him, as the attached letters show.
3. He presents no danger to the community and would appear when and where required.

II. LAW FAVORING RELEASE

Excessive bail that one cannot afford, just like no conditions of release, in a case like this, violates the Eighth Amendment to the United States Constitution. Under the facts of the third superceding indictment in this case as to this accused, no bail at all is not appropriate. *Stack v. Boyle*, 342 U.S. 1, 5 (1951). As Mr. Justice Butler stated, when he was a circuit judge, “...no one shall be required to suffer imprisonment for crime before the determination of his case...”. *United States v. Motlow*, 10 F.2d 657, 662 (7th

Cir. 1926). Presuming that everyone should be kept in jail mainly because they have been charged in a “gang” case or are fans of gangster rap and have made their own rap video is antithetical to a democratic society. Our national history of massive incarceration has proved ineffectual, burdensome, and harmful to our society. Bail has been granted in far more risky cases than this. In *United States v. Truong*, 439 U.S. 1326 (1978), for example, a Vietnamese citizen accused of espionage against the United States during our active conflict in Vietnam was admitted to bail before trial and was also continued on bond even after conviction and sentencing as he appealed. The prosecution could only offer a speculative possibility of flight and danger but did not have any actual supporting evidence. The Supreme Court granted release on bail pretrial and post trial because detention could not be based on speculation. Denial of bail merely because one is accused where, as here, there is no risk of flight nor risk of harm, is a violation of the Constitution. Under the Federal Bail Reform Act, far riskier than Mr. Huynh, in Mr. Jackson, a member of a notorious motorcycle gang, charged with a multi-year drug conspiracy of not only distributing but also manufacturing dangerous drugs, was still granted release. He had ties to his community and abided by his conditions of release. *United States v. Jackson*, 845 F.2d 1262 (5th Cir. 1988). Even the Fourth Circuit has allowed a defendant convicted of money laundering and interstate transportation of stolen property to remain on bond, after his conviction, and having been sentenced, and the federal presumption against bail, because of his suitability for bail and the right to be at

liberty pending a final resolution of an important issue in his case. *United States v. Steinhorn*, 927 F.2d 195 (4th Cir. 1991). *See also United States v. Insley*, 927 F.2d 185 (4th Cir. 1991) where a defendant in a heroin distribution conspiracy was allowed conditions of release pretrial and was also continued on release while he appealed his conviction. In *United States v. Cobb*, 905 F.2d 784 (4th Cir. 1990), conditions of release were also continued after conviction while the defendant appealed.

Mr. Huynh has family and community ties. Being imprisoned before he has had a trial is not consistent with due process nor with a fair chance to defend. There are a vast array of conditions which can satisfy the requirements of the Bail Reform Act and allow his release on terms and conditions.

SANG HUYNH
By Counsel

/S/
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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of September, 2019, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all parties of record.

/S/
MARVIN D. MILLER