

NELSON P. COHEN  
United States Attorney

THOMAS C. BRADLEY  
Assistant U.S. Attorney  
Federal Building & U.S. Courthouse  
222 West Seventh Avenue, #9, Room 253  
Anchorage, Alaska 99513-7567  
Phone: (907) 271-5071  
Fax: (907) 271-1500  
E-mail: thomas.bradley@usdoj.gov

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	Case No. 3:07-cr-00123-RRB-JDR
	)	
Plaintiff,	)	
	)	<b>GOVERNMENT'S POSITION ON</b>
vs.	)	<b>RELEASE OF DEFENDANT</b>
	)	
EUGENE GEORGE WARNER,	)	<b>FILED ON SHORTENED TIME</b>
a/k/a Eugene George: Warner,	)	
a/k/a Eugene Three Rivers Warner,	)	
	)	
Defendant.	)	

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COMES NOW the United States of America in advance of the bail hearing scheduled for Friday, November 21, 2008, and files its opposition to the release of defendant Eugene George Warner. The Court has entertained four

previous motions for bail in this case. After the last two hearings, The Honorable John D. Roberts, United States Magistrate Judge for the District of Alaska, stated that no condition or combination of conditions would reasonably assure the defendant's appearance, and ordered the defendant detained pursuant to Title 18, United States Code, Section 3142(e).

The defendant was indicted in October 2007, and was arrested in July 2008 in San Diego. Upon his arrest, the defendant was ordered released by Magistrate Judge Pappas in the Southern District of California. The United States appealed the release on the grounds that the defendant was a flight risk. See Docket 16 and Exhibit B. The affidavit of Special Agent Khamvongsa detailed the defendant's knowledge of the indictment and his failure to appear in Alaska despite that knowledge. United States District Judge Ralph R. Beistline rescinded the release order. See Docket 19.

Upon his return to Alaska, the defendant was arraigned on August 27 before Magistrate Judge Roberts, who ordered the defendant detained pending a bail hearing scheduled for August 29. See Docket 24. At the August 29 hearing, the defendant proposed his wife, Lorna Warner, as third party-custodian. She admitted that she had been convicted, along with the defendant, of obstruction of the IRS in 1997. She admitted that she and the defendant were aware of the grand

jury, that they learned in January or February of 2008 that the defendant had been indicted, but they did not return to Alaska because they had “other business to take care of.” She also stated that she had filed tax returns in the past claiming to be a “nonresident alien” because she “followed suit” with her husband and that it “made sense” and that “nobody told us it was wrong.” The court denied the defendant’s request to be released, and continued his detention. See Docket 26.

On September 3, the defendant filed a motion for a bail hearing. See Docket 32. Another bail hearing was held before Judge Roberts on September 5. At that hearing, proposed third party custodian Edward Carnahan testified that he had lived at the Warners’ home in Anchorage between approximately October 2007 and May 2008. He repeatedly denied ever receiving a copy of an indictment or summons at the house while he was living there or sending those documents to the Warners in San Diego. Carnahan denied any knowledge of a letter sent to the IRS in November 2007, which included a copy of the indictment in this case, despite the fact that his signature clearly appeared on the document. Carnahan admitted that he does not file tax returns every year, and has not done so for 20 years. He also denied that he sued state judges Ann Preston and Stephanie Cole in federal court in 2000 for violating his civil rights, despite court records showing that he had.

Special Agent Viranousith Khamvongsa testified that he left the summons at Warner's residence in 2007, and that Mr. Carnahan had looked out the window at the house at that time but refused to open the door. Judge Roberts again denied the defendant's release request. See Docket 36.

Yet another bail motion was filed September 24, proposing Christopher Chapman and Jackie Denny as third party custodians. See Docket 45. A hearing was held before Judge Roberts on October 8. At that time, Jackie Denny was withdrawn as a proposed custodian, and Mr. Chapman testified. Chapman, a convicted felon, stated that he had moved to Alaska from Florida two weeks before for the sole purpose of being a third party custodian, having known the defendant "no less than two years and no more than five" but had never met him. Chapman admitted that he had not filed a tax return since 1992, and had been investigated criminally for failure to file. The court again refused to grant the motion for release, and again stated on the record that there were no conditions that could ensure the appearance of the defendant. See Docket 49.

Now the defendant has once more requested release to a third-party custodian, again offering Jackie Denny. The government expects to establish that Ms. Denny has been involved with the defendant's activities for fifteen years. The

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United States is prepared to address these issues on cross examination of the proposed custodian and through witness testimony of its own at Friday's hearing.

The government urges the Court to review the affidavit of Agent Khamvongsa, and listen to the audio recordings of the testimony in the previous hearings, as well as the statements made by Judge Roberts on the record, in order to better understand the context of the defendant's latest attempt to obtain pretrial release. At the conclusion of Friday's hearing, the United States will argue that there are still no conditions that can reasonably assure the defendant's presence at trial, and will ask that detention be continued.

RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of November, 2008, in Anchorage, Alaska.

NELSON P. COHEN  
United States Attorney

s/Thomas Bradley  
THOMAS C. BRADLEY  
Assistant U.S. Attorney  
222 West 7<sup>th</sup> Ave., #9, Rm. 253  
Anchorage, AK 99513-7567  
Phone: (907) 271-5071  
Email: thomas.bradley@usdoj.gov