

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES,

v.

Docket No.: 13-MJ-02162

ROBEL PHILLIPOS

DEFENDANT'S MOTION FOR RELEASE ON BOND

Now comes the defendant, Robel Phillipos, by and through counsel, and requests this Court to release him on bond.

In support of this motion, the Mr. Phillipos has filed affidavits in support of his request from family members, community leaders, and respected members of the community, attached hereto and incorporated herein by reference, and further states as follows:

I. FACTS

A. BACKGROUND INFORMATION

1. Mr. Phillipos is 19 years of age. He was born in Boston and raised in Cambridge, Massachusetts. He is a lifelong resident of Massachusetts.
2. Mr. Phillipos is a graduate of Cambridge Rindge and Latin School. As a student, Mr. Phillipos was known to his friends and teachers as someone who “was always respectful of his teachers and was very friendly with his classmates.” (See Attached, Exhibits, Mother’s Affidavit).
3. Mr. Phillipos has strong family ties to the United States and lived in Cambridge,

MA, with his mother prior to his arrest. Mr. Phillipos comes from a well-educated family, and was raised by his hard working single mother who obtained an associate's degree from Roxbury Community College, a bachelor's degree in Political Science from Northeastern University, and a master's Degree in Social Work from Boston University. (See Attached, Exhibits, Mother's Affidavit).

4. In addition to his mother, Mr. Phillipos has many aunts, uncles, and cousins who are residents of Massachusetts. Mr. Phillipos enjoys strong and extensive community support from his family's church, his friends, and neighbors. Mr. Phillipos is universally described by his support network as friendly, kind, and genuine. (See Attached Affidavits).
5. Until the most recent semester, Mr. Phillipos attended the University of Massachusetts at Dartmouth. (See Attached Affidavits).
6. Prior to May 1, 2013, Mr. Phillipos had never been charged with or arrested for any crime whatsoever.

B. SUMMARY OF THE ALLEGATIONS

7. Mr. Phillipos is not charged with having any knowledge whatsoever of the Boston Marathon bombings of April 15, 2013, or with helping the surviving suspect after the incident in any way whatsoever. Nor is there any allegation that Mr. Phillipos removed, tampered with, or destroyed any potential evidence after the bombing. Finally, there is no allegation that Mr. Phillipos collaborated in any way with the other two individuals charged with obstruction of justice.
8. Rather, the government charged Mr. Phillipos with making a misrepresentation related to the conduct of his college friends, Azamat Tazhayakov and Dias

Kadyrbayev, who are charged with obstruction of justice.

9. The government has conceded, at Mr. Phillipos' initial appearance, that Mr. Phillipos does not pose any danger to the community. However, the government alleges that he poses a flight risk if released while trial is pending. The application the statutory law to the facts of the case, however, shows otherwise.

I. ARGUMENT

A. MR. PHILLIPOS IS ENTITLED TO A PRESUMPTION OF RELEASE ON BOND.

10. Title 18 United States Code Section 3142(a) states "that upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall make a determination regarding bail status of the defendant, and shall enter an order designating a defendant's custodial status" under one of four categories.
- a. Released on personal recognizance *or* upon execution of an unsecured appearance bond (following the provisions of Section 3142(b)).
 - b. Released on a condition or combination of conditions as defined by Section 3142(c).
 - c. temporarily detained to permit revocation of conditional release, deportation, or exclusion under Section 3142(d); or
 - d. detained pursuant to the provisions of Section 3142(e). 18 U.S.C. § 3142(a).
11. Title 18, United States Code, Section 3142(b) requires a judicial officer to order the pretrial release of a defendant on personal recognizance or upon the defendant's execution of an unsecured appearance bond. If, however, the judicial officer finds the release of a defendant on personal recognizance or unsecured appearance bond would not reasonably assure the defendant's appearance at future

proceedings, or will pose a danger to the safety of any other person or the community, then the court will have no obligation to order release. 18 U.S.C. §§ 3142(b) and 3142(c). The judicial officer would then follow the provisions of Title 18, United States Code, Section 3142(c).

12. A defendant who does not qualify for release under Section 3142(b), may nonetheless be released under Section 3142(c). The judicial officer must impose the least restrictive condition or combination of conditions necessary to reasonably assure the defendant's appearance as required and to reasonably assure the safety of any person and the community. 18 U.S.C. § 3142(c)(1)(B).
13. The Court must consider several factors in determining a defendant's eligibility for pretrial release on personal recognizance, unsecured appearance bond, or release on conditions. These factors are listed in Section 3142(g), including:
 - a. the nature and circumstances of the offense (in particular whether it is an offense which is violent or nonviolent in nature, or involves narcotics);
 - b. the weight of the evidence against the person;
 - c. the history and characteristics of the person--character--including physical and mental condition, family ties, employment, financial resources, length of time in the community, community ties, past conduct history relating to drug or alcohol abuse, criminal history, record of court appearances;
 - d. whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and
 - e. In addition to considering evidence of the factors set forth above, the court may upon its own motion, or upon the motion of the government attorney, conduct an inquiry into the source of any property to be designated for potential forfeiture or offered as collateral to secure any bond. 18 U.S.C. § 3142(g)(4). If the court determines that any such

collateral or property, because of its source, will not reasonably assure the appearance of the defendant as required, the designation or use of the collateral or property as security for a bond shall be refused. 18 U.S.C. § 3142(g)(4).

14. Under the statute, Mr. Phillipos is entitled to release. Given the attendant circumstances in this case, Mr. Phillipos proposes a combination of factors to provide the Court with sufficient guarantee that, if released, he will return to answer the charge in this case.
15. The application of the above factors to the facts of this case shows Mr. Phillipos poses no risk of flight. Therefore, the Court must release him pending trial.
16. Given the only plausible explanation for even raising the issue of flight risk is the nature of the charge, Mr. Phillipos argues that the charge, in and of itself, does not support the government's argument of flight risk.
17. In fact, the nature and circumstances of the charge against Mr. Phillipos count favorably toward his release. He is not charged with a violent offense.
18. Although the charge stemmed from the investigation of the horrendous attack of April 15 at the Boston Marathon, Mr. Phillipos has nothing to do with the incident.
19. The government alleges that Mr. Phillipos made misrepresentations about whether or not he had been in the bombing suspect's dormitory room on April 18, 2013, and with regard to his knowledge of the conduct of the two individuals charged with obstruction of justice.
20. The school record shows that Mr. Phillipos had taken a leave of absence for a semester and did not attend school in the spring. As a result, he had not had contact with the main suspect or the other two individuals for over two months.

But by sheer coincidence and bad luck, he was invited to attend a seminar on campus on April 18. As such, he did not have much to offer the authorities regarding the investigation of the suspect.

21. After April 18, 2013, Mr. Phillipos was questioned on multiple occasions on separate dates.
22. Mr. Phillipos was not represented by counsel at any time during the separate and multiple interrogations.
23. The nature of the interrogation and the methods used during the process will offer ample explanation as to how Mr. Phillipos ended up facing the charge of making material misrepresentation.
24. This case is about a frightened and confused 19 year old who was subjected to intense questioning and interrogation, without the benefit of counsel, and in the context of one of the worst attacks against the nation.
25. The weight of the federal government under such circumstances can have a devastatingly crushing effect on the ability of an adolescent to withstand the enormous pressure and respond rationally.
26. It is important to note that despite the repeated questioning, Mr. Phillipos remained at his residence making himself available to federal authorities at all times. Although he was arrested at his home, he would have voluntarily walked in to Court had he been summonsed to appear.
27. Mr. Phillipos has every incentive to attend future court hearings. The charge has ruined his once bright future. He will suffer its enduring and devastating effect for

the rest of his life. The only way he can salvage his future is by clearing his name.

He is committed to do just that.

28. The charge levied against him—intentionally making material misrepresentation to a federal agent—is refutable and Mr. Phillipos looks forward to proving his innocence at trial.
29. Under the circumstances, he has every incentive to appear in Court at future hearings.
30. Moreover, the history and characteristics of Mr. Phillipos support his release. Mr. Phillipos is a college student with strong family and personal ties to his community. He has lived in Massachusetts his entire life and has been involved with the Cambridge community since a very young age. Mr. Phillipos is described as someone who is friendly, mild-mannered, peaceful, and respectful of his elders.
31. Prior to his arrest, Mr. Phillipos lived with his mother in Cambridge, Massachusetts. Many of his family members, with whom he maintains close relationships, live in the Boston area. In addition to enjoying strong relationships with his numerous family members, Mr. Phillipos enjoys strong and extensive community support from his friends, neighbors and his family's church. Mr. Phillipos has no criminal history or involvement with the criminal justice system prior to his arrest in this matter.
32. Mr. Phillipos has proposed a suitable home plan and a third-party custodian.

33. In sum, Mr. Phillipos does not present a risk of flight. His personal history and ties to the community, in addition to the particular nature and circumstances of the offense, are compelling evidence of the absence of any flight risk.

CONCLUSION

Wherefore, Mr. Phillipos respectfully requests this Court to enter a pretrial release order releasing him on pretrial release conditions including GPS monitoring and contact restrictions in addition to all other standard conditions of release.

Respectfully submitted
Robel Phillipos
By his attorneys,

/s/ Derege B. Demissie

DEREGE B. DEMISSIE
DEMISSIE & CHURCH
929 Massachusetts Avenue, Suite 101
Cambridge, MA 02139
Ph: (617) 354-3944
Fax: (617) 354-0985

/s/ Susan B. Church

SUSAN B. CHURCH
DEMISSIE & CHURCH
929 Massachusetts Avenue, Suite 101
Cambridge, MA 02139
Ph: (617) 354-3944
Fax: (617) 354-0985