

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 3 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JASON FONG, AKA asian_ghazi,

Defendant-Appellant.

No. 21-50089

D.C. No.

8:20-cr-00146-DOC-1

Central District of California,

Santa Ana

ORDER

Before: PAEZ, BERZON, and FORREST, Circuit Judges.

Under 18 U.S.C. § 3142(e), pre-trial detention is appropriate only when the district court finds that “no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of . . . the community.” In addition, the district court must state, orally or in writing, the reasons for pre-trial detention. Fed. R. App. P. 9(a); *see also United States v. Wheeler*, 795 F.2d 839, 841 (9th Cir. 1986) (order).

During the detention hearing, the district court explained why it found that appellant posed an extraordinary risk of danger to the community. However, the district court did not at all address why conditions of release – such as those imposed by the magistrate judge – would be inadequate to reasonably address the risk of danger posed by the appellant. We therefore remand this case for the limited purpose of enabling the district court to provide this court with an adequate

explanation on this latter point. *See Wheeler*, 795 F.2d at 841 (“[A] district court’s reasons for its decision must be adequately explained; conclusory statements are insufficient.”). We express no view whatever on the merits of the conditions of release inquiry.

The district court shall provide the oral or written statement within 14 days after the date of this order. Appellant may file a supplemental memorandum within 10 days after the filing date of the district court’s statement. Appellee may file its response within 10 days after service of appellant’s supplemental memorandum. Appellant’s optional reply is due within 7 days after service of the government’s response. The parties’ supplemental memoranda shall not exceed 10 pages.

The parties’ motions to file under seal (Docket Entry Nos. 5 and 6) are granted. The Clerk will maintain Docket Entry Nos. 5-2, 5-3, and 6-2 under seal.

The Clerk will serve this order on the district court.