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 9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 SCOTT QUINN BERKETT,

16 Defendant.
 17

No. CR 21-00292-MCS (JCx)

GOVERNMENT'S OPPOSITION TO
 DEFENDANT'S REQUEST FOR BAIL

Hearing Date: August 25, 2021
 Hearing Time: 1:00 p.m.
 Location: Courtroom of the
 Hon. Jacqueline
 Chooljian

18 Plaintiff United States of America, by and through its counsel
 19 of record, the Acting United States Attorney for the Central District
 20 of California and Assistant United States Attorneys Joseph D. Axelrad
 21 hereby files its Opposition to Defendant's Request for Bail.

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1 This Opposition is based upon the attached memorandum of points
2 and authorities, the files and records in this case, and
3 such further evidence and argument as the Court may permit.

4 Dated: August 24, 2021

Respectfully submitted,

5 TRACY L. WILKISON
6 Acting United States Attorney

7 SCOTT M. GARRINGER
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /s/ Joseph Axelrad
11 JOSEPH D. AXELRAD
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Defendant Scott Quinn BERKETT's ("defendant") obsession with the
4 death of his ex-girlfriend requires that he remain detained pending
5 trial. On April 28, 2021, as he sought to hire a hitman to kill his
6 girlfriend via the DarkWeb, defendant stated:

7 "I would like proof of her death sent to me. **She has a**
8 **distinctive tattoo on one of her forearms that I know the**
9 **image of, so a photo of her corpse and a photo of her**
10 **tattoo for identification would work.** I'll refrain from
11 sending a picture of the tattoo to avoid doctored photos.
12 If possible, letting me know if she was in Arizona or Idaho
13 wuld [sic] also be appreciated so I can also verify via the
14 obituaries."

15 And when defendant was contacted by an undercover law enforcement
16 agent ("UC") posing as the hitman, defendant restated that all he
17 needed was a "picture of the corpse and a picture of the tattoo . . .
18 to verify. . . ". His words leave little doubt as to his desire and
19 intent to see his ex-girlfriend murdered.

20 Defendant is alleged to have orchestrated a murder-for-hire plot
21 during which he utilized the DarkWeb, transmitted a cryptocurrency
22 payment via a bitcoin wallet, provided highly detailed instructions
23 about how to murder his ex-girlfriend, issued demands intended to
24 avoid being scammed and to guarantee her death, and attempted to
25 develop an alibi to ensure he avoided detection by law enforcement.
26 Defendant's conduct was planned, deliberate, and, most concerning,
27 highly sophisticated.

1 For his efforts in trying to secure the murder of his ex-
2 girlfriend, defendant was charged with a violation of 18 U.S.C.
3 § 1958(a), Use of Interstate Commerce Facilities in the Commission of
4 Murder-For-Hire. See United States v. Berkett, CR No. 21-292-MCS.
5 Following his initial appearance, defendant sought a continued
6 detention hearing and, on June 7, 2021, the Court heard argument and
7 determined defendant should remain detained pending trial. (Dkt.
8 17.) Now, defendant seeks reconsideration of that detention order
9 without any changed circumstances and on essentially the same
10 proposed bond as the Court previously rejected.

11 Given all of the facts, defendant remains unsuitable for
12 pretrial release. Specifically, (1) the dangerous, deliberate,
13 sophisticated, and obsessive nature of defendant's plot to murder his
14 ex-girlfriend demonstrates he is a danger to the community; (2)
15 defendant's apparent technological savvy render almost any attempt to
16 limit his access to the internet meaningless; (3) defendant's stated
17 mental health issues only exacerbate the concern for dangerousness;
18 (4) defendant's proposed bond does not mitigate his danger; and (5)
19 the evidence of defendant's guilt is overwhelming. The government
20 respectfully submits that this Court should affirm its prior order
21 and deny defendant's request for bond, as defendant's release would
22 endanger the community, and, in particular, his ex-girlfriend.

23 **II. STATEMENT OF FACTS**

24 **A. Defendant Attempted to Hire a Hitman Via the Dark Web**

25 On April 22, 2021, defendant, while using the screenname
26 "Ula77," explained to another user of the Dark Web that he was
27 "saving up for a simple hit. Ill be putting the job in as soon as I
28 have the BTC [Bitcoin]." Five days later, on April 27, 2021,

1 defendant told to a Dark Web user that he believed could provide
2 murder-for-hire services, "Hello, I was hoping you would be the
3 person to contact if I had questions on what sort of information I
4 would need to have ahead of time when placing a hit if I dont have
5 the address, and if I can make small requests for once the hits been
6 carried out IE: Make sure to destroy the phone of the target."

7 The next day, on April 28, 2021, defendant transmitted \$11,000
8 of Bitcoin to the Dark Web group he believed would facilitate the
9 murder of his ex-girlfriend, victim R.E. Defendant submitted an
10 "order," providing R.E.'s full name, Facebook account, physical
11 address in Idaho, email address, and nicknames. Defendant also
12 included an "Order Description," which stated, "***I'd like it to look
13 like an accident, but robbery gone wrong may work better. So long as
14 she is dead. I'd also like for her phone to be retrieved and
15 destroyed irreparably in the process.***" Defendant followed up with a
16 series of instructions, stating "I would like proof of her death sent
17 to me. She has a distinctive tattoo on one of her forearms that I
18 know the image of, so a photo of her corpse and a photo of her tattoo
19 for identification would work. I'll refrain from sending a picture
20 of the tattoo to avoid doctored photos. If possible, letting me know
21 if she was in Arizona or Idaho wuld [sic] also be appreciated so I
22 can also verify via the obituaries."

23 Next, on May 9, 2021, defendant stated, "Ive updated the order
24 so that the bounty matches with what you informed me the hitman was
25 requesting for the job: 2000 extra to check both locations and 2000
26 extra to destroy the phone, and the original 9000 bounty, for a total
27 of 13000. I look forward to receiving communications that will let me
28 know when, approximately, to prepare my alibi."

1 **B. Defendant Confirms Desire to Have R.E. Murdered During**
2 **Series of Conversations with Undercover Agent**

3 On May 19, 2021, a UC, posing as the hitman defendant hired via
4 the Dark Web, contacted defendant via WhatsApp. During a series of
5 recorded calls, the UC confirmed that R.E. was the individual
6 defendant wanted murdered and that he had paid \$14,000 to fulfill the
7 murder-for-hire contract via the Dark Web and using Bitcoin.

8 During subsequent conversations, defendant and the UC discussed
9 details of R.E.'s murder, including defendant's desire that the
10 murder be made to appear as a robbery gone wrong or accident.
11 Defendant expressed concern that the murder not be traced back to him
12 and confirmed his desire for a proof-of-death photograph of R.E.'s
13 distinctive tattoo. Specifically, defendant and the UC had the
14 following exchange:

15 UC: Good. Alright, so my understanding is what has to get done
16 is this has to get done, uh we're looking at some kind of
17 accident or robbery to have gone wrong, right?

18 DEFENDANT: Yeah.

19 UC: Okay.

20 DEFENDANT: That way it doesn't get traced.

21 UC: Right, and then we need to work on making sure your alibi is
22 good. Um, and then we need some, you want some kind of proof,
23 and there's, if I'm, if I'm getting the information right, it's
24 some kind of phone that needs to be taken care of as well,
25 right?

26 DEFENDANT: Yeah.

27 UC: Okay.

1 DEFENDANT: Uh, proof of the uh tattoo on her, one of her
2 forearms.

3 UC: Okay. Do you want, is there, do you want that tattoo? Is
4 that part of this?

5 DEFENDANT: Just need a picture of it to verify.

6 In fact, during his conversations with the UC, defendant
7 repeated his concern for a scam, that is, he wanted to ensure that
8 the thousands of dollars he paid for R.E.'s murder would actually
9 result in her death. Specifically, the following exchange took
10 place:

11 UC: Okay. What, is there any part of it, so, do you wanna see?
12 Do you want a video of her not breathing? What do, what do you
13 want to see?

14 DEFENDANT: Um, picture of the corpse and a picture of the
15 tattoo, of the tattoo, to make, to verify . . .

16 UC: Okay.

17 DEFENDANT: . . . Just so that way, cuz there were warnings of
18 like, hey, make sure it's not photo-shopped.

19 During the conversations that followed, defendant and the UC
20 also discussed developing an alibi, with defendant stating, "There's
21 a few places nearby maybe that, that uh can put me on camera." When
22 the UC asked for any additional helpful information about R.E.,
23 defendant explained that she has a dog, that her family has a gun,
24 and that she "has weak heart . . . any feigning a drunk driver
25 situation would probably be very easy to pull off . . . and wouldn't
26 have as high of a survival chance." When the UC asked defendant for
27 an additional payment of \$1,000, defendant promptly wired the money
28 via Western Union.

1 Finally, on May 21, 2021, the UC told defendant that the murder
2 would happen that day. To develop his alibi and ensure he was
3 recorded on a surveillance camera at the time he believed the murder
4 would take place, defendant drove to a nearby grocery store where he
5 purchased alcohol. Defendant was arrested as he got into his car
6 outside the grocery store.

7 Following his arrest, defendant waived Miranda and agreed to be
8 interviewed by law enforcement. During a recorded interview,
9 defendant admitted to, among other things, using the Dark Web; making
10 a Western Union payment; knowing where R.E.'s family lived in Idaho
11 and where R.E.'s sister lived in Arizona; and owning Bitcoin and
12 having a Coinbase wallet. Defendant also claimed to have multiple
13 personalities, one of which he identified as violent.

14 **C. Relevant Background**

15 On May 21, 2021, defendant was charged by complaint with murder-
16 for-hire in violation of 18 U.S.C. § 1958(a). (Dkt. 1.) On May 24,
17 2021, defendant appeared on the complaint. On June 7, 2021, this
18 Court held a continued detention hearing at which defendant was
19 ordered permanently detained pending trial. (CR 17.) This Court's
20 Order of Detention specifically noted "[d]efendant poses a risk to
21 the safety of other persons and the community based on instant
22 offense allegations/weight of evidence . . . mental health history;
23 alleged commission of offense while residing with proposed sureties
24 suggest danger would not be mitigated by purported bond." (Id., p.
25 4.)

26 On August 9, 2021, defendant filed the instant application to
27 reconsider the Court's order of detention. (CR 34.) In his
28 application, defendant provides no new or changed circumstances to

1 support his request that the Court reconsider its detention order.
2 Rather, defendant provides a series of letters from family members
3 who attest to his character. In fact, defendant appears to propose
4 the very same terms of release that this Court previously rejected.

5 **III. ARGUMENT**

6 **A. Legal Standard**

7 The Bail Reform Act of 1984 (the "Act") directs courts to impose
8 those conditions of pretrial release that "will reasonably assure the
9 appearance of the person as required and the safety of any other
10 person and the community," 18 U.S.C. § 3142(c)(1)(B), and permits
11 pretrial detention of a defendant without bail where "no condition or
12 combination of conditions will reasonably assure the appearance of
13 the person as required and the safety of any other person and the
14 community," § 3142(e). Courts must consider several factors when
15 determining whether and what conditions are appropriate, including:
16 (1) the nature and seriousness of the offense charged; (2) the weight
17 of the evidence against defendant; (3) the defendant's character,
18 physical and mental condition, family and community ties, past
19 conduct, history relating to drug or alcohol abuse, and criminal
20 history; and (4) the nature and seriousness of the danger to any
21 person or to the community that would be posed by the defendant's
22 release. 18 U.S.C. § 3142(g); United States v. Winsor, 785 F.2d 755,
23 757 (9th Cir. 1986).

24 Detention is appropriate where a defendant is either a danger to
25 the community or a flight risk; it is not necessary to prove both.
26 United States v. Motamedi, 767 F.2d 1403, 1406 (9th Cir. 1985);
27 United States v. Kouyoumdjian, 601 F. Supp. 1506, 1508-10 (C.D. Cal.
28 1985). A finding that pretrial release will not ensure the

1 appearance of the defendant need only be supported by a preponderance
2 of the evidence. Motamedi, 767 F.2d at 1406. A finding that a
3 defendant is a danger to the community must be supported by clear and
4 convincing evidence. § 3142(f).

5 The weight of the evidence is the least important of the factors
6 and the statute neither requires not permits a pretrial determination
7 that the person is guilty. Winsor, 785 F.2d at 757. However, the
8 nature of the offense and the evidence of guilt is relevant to
9 indicate the likelihood that the person will fail to appear or will
10 pose a danger to the community. Id.

11 **B. Defendant Is A Danger to Victim R.E. and the Community**

12 Defendant's release poses a grave risk to his ex-girlfriend and
13 the community at large, and his proposed bond does nothing to
14 mitigate these concerns. The Court should find that defendant
15 continues to pose a danger to the community and order that he remain
16 detained for the following four reasons. First, the nature of the
17 offense conduct is strong evidence of defendant's dangerousness. As
18 the complaint reflects, defendant engaged in a sustained and highly
19 technical plot to engineer the murder of his ex-girlfriend.
20 Defendant suggested different methods of killing his ex-girlfriend
21 and was unequivocal about the intended result, demanding "proof of
22 her death" and a "photo of her corpse and a photo of her tattoo for
23 identification." To pursue his lethal goal, defendant utilized
24 sophisticated and complex technology to access the Dark Web,
25 communicated with an entity on the Dark Web while using an alias, and
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1 ultimately paid for R.E.'s murder with Bitcoin. Defendant's conduct
2 required a high degree of technological savvy.¹

3 Second, defendant's obsession with the murder of his ex-
4 girlfriend and avoiding law enforcement detection does not seem to
5 have abated. Indeed, nothing in the record, defendant's application,
6 or his personal history suggests that he is any less of a danger to
7 her and the community. Moreover, defendant has previously indicated
8 that he may suffer from various psychiatric issues, which only
9 exacerbate the concern for dangerousness given his demonstrated
10 intent to have R.E. murdered.

11 Third, during his communications with the UC, defendant
12 repeatedly expressed a desire to avoid law enforcement detection.
13 When he believed R.E. would be murdered, defendant made sure to place
14 himself and his car on surveillance camera footage, while purchasing
15 an item that would require his photo identification. Defendant
16 unquestionably knew and appreciated the significance of his actions,
17 doing whatever he could to avoid the consequences.

18 Fourth, and finally, the evidence of defendant's involvement in
19 this crime is very strong and includes:

- 20 • Law enforcement was able to trace the Bitcoin payment made
21 by Ula77 to the Dark Web group for R.E.'s murder to a
22 Coinbase wallet associated with "Scott Berkett," using his
23 defendant's parents' residence as the address, as well as
24 defendant's date of birth, driver's license number, social
25 security number, and phone number. Coinbase further
26 provided the Bank of America savings account and Mastercard

27
28 ¹ The government also understands that at the time of his
arrest, defendant worked as a computer technician.

1 debit card used to purchase the Bitcoin. Both are
2 registered to defendant.

- 3 • Defendant used the same phone number to communicate with
4 the UC as the number he used to make a reservation at a
5 local hotel for R.E. during her visit to Los Angeles.
- 6 • Defendant was observed by surveillance making a Western
7 Union payment to the UC.
- 8 • Defendant was arrested as he attempted to develop an alibi
9 at the time he believed R.E. would be murdered.
- 10 • During his post-arrest interview, defendant admitted
11 several key facts from the investigation, including facts
12 that identified him as the individual speaking with the UC.

13 Given his history as well as the current allegations, the Court
14 should find that defendant continues to present a danger to the
15 community and, in particular, his ex-girlfriend.

16 **C. Defendant Presents A Substantial Risk of Nonappearance**

17 Defendant presents a substantial risk of non-appearance. First,
18 as discussed above, defendant appears singularly focused on the
19 murder of his ex-girlfriend. There is nothing to suggest that a
20 bond, secured or otherwise, would do anything to deter his conduct,
21 let alone assure his presence in court. Second, defendant faces a
22 significant sentence of imprisonment if convicted at trial, which
23 creates an incentive to flee or to go into hiding in the Central
24 District. The § 1958(a) count carries a statutory maximum sentence
25 of 10 years. Defendant's Guidelines calculation, without acceptance,
26 is 121-151 months. Such a lengthy prison sentence, especially when
27 coupled with the strength of the evidence against defendant, provides
28 a significant incentive for defendant to flee. Courts have

1 recognized this a basis for finding defendant is a flight risk. See
2 United States v. Townsend, 897 F.2d 989, 995 (9th Cir. 1990) ("Facing
3 the much graver penalties possible under the present indictment, the
4 defendants have an even greater incentive to consider flight.");
5 United States v. Gonzalez Claudio, 806 F.2d 334, 338 (2d Cir. 1986)
6 ("It is entirely reasonable to conclude that a risk of flight is more
7 likely in circumstances where evidence indicates that defendant . . .
8 faces a substantial risk of being convicted of serious pending
9 charges and receiving significant punishment.") Thus, the Court
10 should also find that defendant is a risk of non-appearance.

11 **IV. DEFENDANT'S PROPOSED BOND CONDITIONS ARE INSUFFICIENT**

12 As an initial matter, the government submits that the totality
13 of the record shows defendant is not suitable for bond. Moreover,
14 defendant's proposed bond has a number of problems. First, defendant
15 appears to propose the same bond that the Court previously rejected.
16 (Dkt. 16, 17.) Specifically, defendant proposes to secure his bond
17 with his parents' house - the very same location at which he appears
18 to have engaged in all of the charged conduct. As the Court
19 previously found, living with his parents and jeopardizing their home
20 did not deter defendant from engaging in serious illegal conduct
21 (Dkt. 17, at 4), and there is nothing to suggest that anything has
22 changed. Second, defendant proposes to limit his access to the
23 internet in order to address concerns that he might continue to
24 engage in the charged conduct. Of course, this type of condition is
25 practically unworkable given the prevalence of internet-connected
26 devices. Coupled with defendant's obvious and extensive
27 technological savvy, such a condition is effectively meaningless.
28 And third, defendant's obsession with the murder of his ex-

1 girlfriend, coupled with his purported psychiatric issues, likely
2 significantly minimizes the deterrent effect that the loss of his
3 parents' house might otherwise have. The Court previously rejected
4 this proposed bond and it should do so again.

5 **V. CONCLUSION**

6 For the foregoing reasons, based on the totality of the facts
7 presented, the government respectfully requests that this Court order
8 defendant remain detained pending trial.

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