

MAY 23 1997

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JAMES DODSON VIEFHAUS, JR.,
also known as Thorsson,

Defendant-Appellant.

No. 97-5076
(D.C. No. 97-CR-5-BU)
(N.D. Okla.)

ORDER AND JUDGMENT*

Before PORFILIO, TACHA, and EBEL, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

James D. Viefhaus appeals the district court's order denying his motion for revocation of a detention order entered by the magistrate judge. Our review of the district court's ruling is plenary as to questions of law, giving due deference to the court's factual findings. See United States v. Meyers, 95 F.3d 1475, 1488-89 (10th Cir. 1996). Our jurisdiction arises from 28 U.S.C. § 1291; see 19 U.S.C. § 3145(c).

Defendant stands charged in the Northern District of Oklahoma of 1) conspiracy to make a bomb threat and to possess a pipe bomb; 2) willfully making a bomb threat; and 3) possessing a nonregistered destructive device, namely the components of a pipe bomb. After a hearing, the magistrate judge ordered defendant detained, concluding that while he was not a flight risk, he was a danger to the community and, further, that no condition or combination of conditions would assure the community's safety. See 18 U.S.C. § 3142(e). Defendant moved to reopen the hearing, seeking revocation of the detention order. After a hearing, the district court denied defendant's motion, affirming the ruling of the magistrate judge.

On appeal, defendant challenges the magistrate judge's factual finding that he is a danger to community, based on defendant's suppositions with regard to evidence obtained from a search of defendant's residence. Defendant also contends that he should be released on bond because he has no previous criminal

record and in light of his offered conditions of release. He points to the fact that a co-defendant was ordered released on bail under certain conditions.

We have independently reviewed the record on appeal in light of the applicable law. We are convinced that the district court's factual findings were proper. Further, based on these findings, we agree with the district court that no condition or combination of conditions would reasonably assure the safety of the community. Accordingly, we conclude that the district court's detention order is proper.

The judgment of the United States District Court for the Northern District of Oklahoma is AFFIRMED.

ENTERED FOR THE COURT
PER CURIAM