

IN THE
Supreme Court of the United States

CONRAD M. BLACK, JOHN A. BOULTBEE, AND
MARK S. KIPNIS,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Writ Of Certiorari
To The United States Court Of Appeals
For The Seventh Circuit**

APPLICATION OF PETITIONER BLACK FOR BAIL PENDING APPEAL

SUPPLEMENTAL APPENDIX

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May 29, 2009

Counsel for Petitioner Black

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	No. 05 CR 727-02
vs.)	
)	
JOHN A. BOULTBEE,)	
(USM # 18338-424))	
)	
Defendant.)	

ORDER

Whereas John A. Boultee, USM #18338-424, a Canadian national and domiciliary, was convicted following trial in the Northern District of Illinois, on three counts of mail fraud (18 U.S.C. §§1341, 1346) and sentenced on December 10, 2007, to, *inter alia*, a 27-month term of imprisonment, which he is currently serving at FCI Lompoc, a facility of the United States Bureau of Prisons ("BOP"), following the affirmance of his judgment of conviction by the United States Court of Appeals for the Seventh Circuit on June 25, 2008, and his voluntary surrender thereafter on July 10, 2008; and

Whereas on May 18, 2009, the United States Supreme Court granted Mr. Boultee's petition for a writ of certiorari (2009 WL 62169) to review the order of the Court of Appeals affirming the judgment of conviction; and

Whereas the government agrees that Mr. Boultee satisfies all of the standards set

forth in 18 U.S.C. §3143(b) for release pending appeal, including that he is not a risk of flight or danger to the community and, if successful in the United States Supreme Court, he may be entitled to a new trial; and

Whereas upon his release, Mr. Boulton desires to and will return to his home in Victoria, British Columbia, Canada, to await the outcome of the United States Supreme Court review of his conviction and the affirmance by the Court of Appeals; and

Whereas a financially responsible United States citizen, Mark Wilkinson, has agreed to sign as surety an appearance bond for Mr. Boulton, guaranteeing Mr. Boulton's appearance when and where directed by the Court; and

Whereas the government consents to Mr. Boulton's release from the custody of the BOP and the Department of Homeland Security ("HLS"), Bureau of Immigration and Custom Enforcement ("ICE"), and his return to Canada, pending United States Supreme Court review and upon Mr. Wilkinson's execution as surety of an appearance bond in the face amount of \$500,000; now therefore

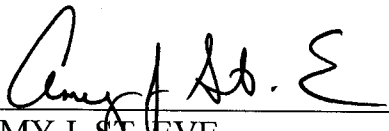
IT IS HEREBY ORDERED AND DECREED that

1. John A. Boulton (USM # 18338-424) be released forthwith from the custody of the BOP and ICE;
2. John A. Boulton be permitted to return immediately to his home in Canada, the country in which he shall remain, pending United States Supreme Court review and determination of the order of the Court of Appeals affirming his judgment of conviction;

and

3. John A. Boulbee appear when and where this Court shall direct.

Dated: May 28, 2009



AMY J. ST. EVE
United States District Court Judge

UNITED STATES DISTRICT COURT
for the
Northern District of Illinois

United States of America)
v.)
John A. Boultonbee USM # 18338-424) Case No. 05 Cr. 727
Defendant)

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate any federal, state or local law while on release.
(2) The defendant must cooperate in the collection of a DNA sample if the collection is authorized by 42 U.S.C. § 14135a.
(3) The defendant must immediately advise the court, defense counsel, and the U.S. attorney in writing before any change in address or telephone number.
(4) The defendant must appear in court as required and must surrender to serve any sentence imposed

The defendant must appear at (if blank, to be notified) Place
on Date and Time

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released on condition that:

- (✓) (5) The defendant promises to appear in court as required and surrender to serve any sentence imposed.
(✓) (6) The defendant's surety, Mark Wilkinson, executes an unsecured bond binding the surety to pay to the United States the sum of Five Hundred Thousand Dollars (\$500,000) in the event of defendant's failure to appear as required or surrender to serve any sentence imposed.

ADDITIONAL CONDITIONS OF RELEASE

Upon finding that release by one of the above methods will not by itself reasonably assure the defendant's appearance and the safety of other persons or the community, IT IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

() (7) The defendant is placed in the custody of:
Person or organization
Address (only if above is an organization)
City and state Tel. No. (only if above is an organization)

who agrees (a) to supervise the defendant in accordance with all of the conditions of release, (b) to use every effort to assure the defendant's appearance at all scheduled court proceedings, and (c) to notify the court immediately if the defendant violates any condition of release or disappears.

Signed: Custodian or Proxy Date

- () (8) The defendant must:
(a) report to the telephone number, no later than
(b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property:
(c) post with the court the following proof of ownership of the designated property, or the following amount or percentage of the above-described sum
(d) execute a bail bond with solvent sureties in the amount of \$
(e) maintain or actively seek employment.
(f) maintain or commence an education program.
(g) surrender any passport to:
(h) obtain no passport.
(i) abide by the following restrictions on personal association, place of abode, or travel: Travel only permitted between Canada and U.S. absent government and court consent
(j) avoid all contact, directly or indirectly, with any person who is or may become a victim or potential witness in the investigation or prosecution, including but not limited to:
(k) undergo medical or psychiatric treatment:
(l) return to custody each (week) day at o'clock after being released each (week) day at o'clock for employment, schooling, or the following purpose(s):
(m) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary.
(n) refrain from possessing a firearm, destructive device, or other dangerous weapons.
(o) refrain from any excessive use of alcohol.
(p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
(q) submit to any testing required by the pretrial services office or the supervising officer to determine whether the defendant is using a prohibited substance. Any testing may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as a condition of release.
(r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if the pretrial services office or supervising officer considers it advisable.
(s) participate in one of the following location monitoring program components and abide by its requirements as the pretrial services officer or supervising officer instructs.
(i) Curfew. You are restricted to your residence every day from to , or as directed by the pretrial services office or supervising officer; or
(ii) Home Detention. You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities pre-approved by the pretrial services office or supervising officer; or
(iii) Home Incarceration. You are restricted to 24-hour-a-day lock-down except for medical necessities and court appearances or other activities specifically approved by the court.
(t) submit to the location monitoring indicated below and abide by all of the program requirements and instructions provided by the pretrial services officer or supervising officer related to the proper operation of the technology.
The defendant must pay all or part of the cost of the program based upon your ability to pay as the pretrial services office or supervising officer determines.
(i) Location monitoring technology as directed by the pretrial services office or supervising officer;
(ii) Radio Frequency (RF) monitoring;
(iii) Passive Global Positioning Satellite (GPS) monitoring;
(iv) Active Global Positioning Satellite (GPS) monitoring (including "hybrid" (Active/Passive) GPS);
(v) Voice Recognition monitoring.
(u) Defendant must reside in Canada until the U.S. Supreme Court decides his appeal and issues its mandate, and in the event the judgment of conviction is affirmed, defendant shall voluntarily surrender to the custody of the U.S. Bureau of Prisons as directed by the court.

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (i.e., in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.

Handwritten signature of John A. Baerthe with initials KAG above it.

Defendant's Signature

City and State

Directions to the United States Marshal and the U.S. Bureau of Prisons

- (✓) The defendant/inmate (USM # 18338-424) is ORDERED released forthwith.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

Date: 5-28-09

Handwritten signature of Amy J. St. Evr.

Judicial Officer's Signature

Printed name and title: Amy J. St. Evr

Printed name and title

AO 98A (Rev. 11/07) Appearance and Compliance Bond

UNITED STATES DISTRICT COURT

Northern District of Illinois

UNITED STATES OF AMERICA
V.

APPEARANCE AND COMPLIANCE BOND

John Bultbee

Defendant

Case Number: 05 CR 727

Non-surety: I, the undersigned defendant acknowledge that I and my...
[X] Surety: We, the undersigned, jointly and severally acknowledge that we and our...
personal representatives, jointly and severally, are bound to pay to the United States of America the sum of
\$ 500,000, and there has been deposited in the Registry of the Court the sum of
\$ -0- in cash or (describe other security).

The conditions of this bond are that the defendant, John Bultbee Name

is to (1) appear before this court and at such other places as the defendant may be required to appear, in accordance with any and all orders and directions relating to the defendant's appearance in this case, including appearance for violation of a condition of defendant's release as may be ordered or notified by this court or any other United States District Court to which the defendant may be held to answer or the cause transferred; (2) comply with all conditions of release imposed by the court, and (3) abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any order or direction in connection with such judgment.

It is agreed and understood that this is a continuing bond (including any proceeding on appeal or review), which shall continue until such time as the undersigned are exonerated.

If the defendant appears as ordered or notified and otherwise obeys and performs the foregoing conditions of this bond, then this bond is to be void, but if the defendant fails to obey or perform any of these conditions, payment of the amount of this bond shall be due forthwith. Forfeiture of this bond for any breach of its conditions may be declared by any United States District Court having cognizance of the above entitled matter at the time of such breach and if the bond is forfeited and if the forfeiture is not set aside or remitted, judgment may be entered upon motion in such United States District Court against each debtor jointly and severally for the amount above stated, together with interest and costs, and execution may be issued and payment secured as provided by the Federal Rules of Criminal Procedure and any other laws of the United States.

This bond is signed on May 28, 2009 at Chicago, Illinois Date Place

Defendant John Bultbee

Surety

Surety

Signed and acknowledged before me on May 28, 2009 Date

FILED
5-28-09
MAY 28 2009

Signature of Judge/Clerk

Bond Approved: MICHAEL W. DOBBINS
Signature of Judge
CLERK, U.S. DISTRICT COURT