

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

November 23, 2015

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HUMPHREY EZEKIEL ETENYI,

Defendant - Appellant.

No. 15-3244
(D.C. No. 6:15-cr-10102-JTM-1)
(D. Kan.)

ORDER AND JUDGMENT*

Before **KELLY, GORSUCH**, and **BACHARACH**, Circuit Judges.

Humphrey Ezekiel Etenyi appeals from the district court's order reversing the magistrate judge's decision granting him pretrial release. Exercising jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3145(c), we remand for further proceedings.

Mr. Etenyi is charged in a five-count indictment. He appeared at a detention hearing before a magistrate judge in July 2015. The magistrate judge denied the motion for detention and ordered Mr. Etenyi's release, subject to a bond and other conditions. The order was stayed pending district court review.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

In early August 2015, the district court held a hearing on the government’s motion to revoke the magistrate judge’s order during which the parties argued their respective positions. The court did not issue a decision—instead it made observations concerning the factors for and against detention and took the matter under advisement. The court eventually entered a memorandum and order granting the government’s motion for revocation. It states: “For the reasons stated on the record during the hearing, the court denies defendant’s release.” *United States v. Etenyi*, Aplt. App. at 44.

We have examined the transcript of the August 2015 hearing and conclude that statements made by the district court do not provide sufficient explanation and factual findings to support the written decision, which in turn places the decision beyond meaningful appellate review. *See United States v. Affleck*, 765 F.2d 944, 954 (10th Cir. 1985). Accordingly, we remand to the district court for findings of fact and a statement of reasons that explain and support the decision to revoke the magistrate judge’s order to detain Mr. Etenyi, or otherwise order his pretrial release subject to appropriate conditions.

Entered for the Court
Per Curiam