

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT LONDON
CASE # 6:20-CR-11-REW-HAI-2

UNITED STATES OF AMERICA

PLAINTIFF

v.

GARY BALDOCK

DEFENDANT

MEMORANDUM AND PROFFERS FOR POTENTIAL RELEASE OF DEFENDANT

Comes now the Defendant, Gary Baldock, by and through undersigning CJA counsel, and herewith makes the following representations to the Court:

1. The Proffers made herein and below are based on letters received from people voluntarily written and or based on oral conversations that counsel has had with these people regurgitated as carefully and as responsibly and contemporaneously as can be done. These letters are in support of the Defendant's claim that his release under the circumstances as offered at the conclusion in this memorandum would not pose a risk to any person within the community or that the Defendant would be a risk to flee.
2. Counsel is mindful of the allegations in the criminal complaint herein and in the grand jury's return of an attempted murder indictment and any penalties there unto. However, some persons discussed below have editorialized opinions about the method by which law enforcement used to serve the warrant and that such is relevant to the issue to the Defendant's potential release.

RANDY DIAL

Mr. Dial is currently a Casey County Judge Executive and has known Gary Baldock since he was 5 or 6 years old. Gary's and Randy's brothers were long time friends and were

involved in the same gate business with Randy even working with Gary for a short period of time. Randy is a former police officer and remembers spending nights with Gary in his capacity as a Constable investigating crimes in Casey County prior to Gary leaving Casey County and moving to Pulaski County several years ago. Mr. Dial has been around police officers and law enforcement for many, many years and opined that even though he did not know the circumstances under which the Baldock arrest was affected expressed some concern about the methods with which law enforcement may have acted.

CHAD WEDDLE

Mr. Weddle is now the sheriff of Casey County and has known Gary for 25 to 30 years. He remembers him well as a Casey County constable in his capacity of being an 18 year law enforcement police officer. He and his family have known the Baldock family their entire lives and he has heard portions of the 911 tape in which Gary Baldock calls 911 twice while entry was being affected earlier in the morning in the dark at Gary's residence for the underlying indictment. Chad, while not knowing all the facts and surrounding circumstances, is concerned that the way the arrest was done was potentially terribly risky and unnecessary and even opined that if he was given a warrant to serve on Gary, he would have called Gary and asked him to come into the Sheriff's department and was confident that Gary would have done that voluntarily and would not had to be physically removed in a shoot out with FBI agents.

CASEY DAVIS

Casey Davis is currently the Casey County Court clerk and he has written a letter, attached hereto, offering his support of Gary Baldock. Mr. Davis has known the Baldock family and while he was clear to say that he had no knowledge of the facts of the case that he has known personally that Gary has served the community of Liberty and Casey County faithfully as a law

abiding constable and police officer and that he in his capacity as an elected county official has never heard anything negative about Mr. Baldock or his family. As a politician, Mr. Davis commented that he would hear a lot of hearsay about not only other people but himself as an elected politician and laughed saying that if people believed one half of people who were unhappy with him said he never would have been elected in the first place. Mr. Davis concluded by saying that he had not been in touch with Mr. Baldock since Mr. Baldock left Casey County to go to Pulaski County but felt like if there was anything discomfited about going to Pulaski or that Mr. Baldock had a change of his basic behavior patterns he would have heard about it.

FORMER KSP DETECTIVE DANNY BURTON

Former Detective Danny Burton with the KSP has known Gary Baldock since the 80's. As a Kentucky State Police officer Danny knew Gary's father was also a constable and worked with Gary as a constable doing law enforcement work in Casey County. He has never heard of Gary Baldock doing anything less than straight forward and by the rules and believes that in a smaller community like Casey County or Pulaski County that someone crossing the line as law enforcement is generally a fairly well known to other law enforcement officials as having crossed the line and that he has never seen any shotty or shady work as a constable in Casey County by Gary Baldock.

He further stated that had he ever as a law enforcement official been called upon to serve process or a warrant on Gary Baldock would have called Gary in and said we need to talk and he believes then and now that Gary would have come in honorable on his own and would have allowed whatever would happen from that point to happen. Former Detective Burton stated that he had a significant health issue and did not have time remaining in his life to tell anything other than the truth through this writer to the Magistrate but that he simply did not believe any stories

that he had heard about Gary Baldock even though he candidly admitted he did not know much about the facts of the case.

DONNA SUE YOUNG

Ms. Young and Gary Baldock as Johnny Cash famously sang “Got Married in a Fever” when she was 17 and Gary was 18. They had 2 sons, Chad and Brad, and they divorced approximately 10 years later. At the time of the divorce, Gary was a police officer and spent a great deal of time on the road. The divorce was amicable according to both parties and they remain respectful of one another ever since. In fact, Ms. Young’s 19-year-old son who is the biological son of her 2nd husband, went to Pulaski Community College to take a criminal justice course last year and while doing so did a ride along with Gary in his cruiser as a Pulaski County Constable. She trusts her son’s safety to her ex-husband.

Donna stated that Gary had always been a good police officer and was respected in Casey County as a police officer and took the job seriously at all times.

She also stated that it was unbelievable to her that if someone broken into her house and she was asleep that she too, would shoot first and ask questions later and when advised that her ex-husband actually called 911 to report a break-in she opined that she was not one bit surprised because he would never knowingly pull a firearm on anyone in the course of his duties unless he was in imminent danger. She further explained that during the time of his being a police officer while married to her that he was often times in situations where it might have been easier to shoot than not but that Gary never shot if he could talk the Defendant down of whatever difficulties the Defendant was on because he believed that was the primary job of law enforcement.

CARMOLETTA BALDOCK

Carmoletta is the second wife of Gary who admits that she is still in love with her ex-husband and offers the following as her narrative of life with Gary. When Carmoletta and Gary got married Carmoletta's, prior born children spent the honeymoon week with Donna Sue and her family. Donna Sue and Carmoletta are still friends and Tiffany, who is Carmoletta's daughter, comes to Donna Sue's house when Donna Sue's son, Austin, was born so that all of the children could feel like family. When Donna Sue's grandchild was born, Carmoletta did not want to interfere but Donna Sue called her and asked her what grandmother like name she would like because she was part of Donna Sue's family and always has been and remains friends with Donna Sue to this day.

Carmoletta's son, Matthew, who is happily celebrating one year of sobriety and recovery, became, as so many people do, addicted to drugs while Carmoletta was married to Gary the police officer. The demise of Carmoletta and Gary's marriage was because Gary was so anti-drug that he did not want Carmoletta assisting or supporting Matthew's drug habit. When Matthew would not stop doing drugs, Gary banned Matthew from the parties' home which became the demise of the marriage. Carmoletta, in retrospect, knows that she was enabling Matthew and ultimately Matthew had to go to jail to get sober. Both parties, Gary and Carmoletta, believe that they did not behave correctly in response to Matthew's drug problem and both, in retrospect, would have handled the matter differently. In the years of marriage to Carmoletta, Carmoletta claims that Gary absolutely hated drugs but never raised his voice to her, she has never been afraid of Gary and loves him still. As only a wife who suffered through a divorce for the sake of a child would know, life with a drug addicted child puts incredible stress on a marriage especially when one party is law enforcement and the other is enabling the drug user by providing money unwittingly for drugs in hope that the drug habit would end.

TIFFANY PRICE

Tiffany is a 30-year-old resident of Pulaski County, who is Carmoletta's full daughter and who's brother is Matthew. Of all the people counsel interviewed Tiffany was the most glib and the most emotional about her dad. When she was 5 years old, 25 years ago, her mom, Carmoletta, married Gary and she calls Gary her father or dad because of the relationship and the method by which Gary helped to raise her.

On April 28, 2020 Tiffany earned her 5-year chip for sobriety after coming off a heroin addiction which she suffered through a number of years. She believes it was Gary's steady help and support that assisted her in her recovery and because Gary was such a good step-parent in her married relationship Tiffany has 3 step-children and Tiffany believes that as a result the lessons taught to her by Gary, she is a better step-parent now to her 3 children than she would have been otherwise. Tiffany believes that Gary and her mom's support saved her life and she recalls as well that her brother, Matt, also hit with drug addiction reacted to Gary's help in a far different manner.

Gary paid attorneys for Matt, put money on his books when he got to jail, and when Matt got out of jail Gary gave him a job, working in the gate business, and purchased him a truck. Regrettably, Matt went back to the drugs and Gary turned his back on Matt and as noted in Carmoletta's proffer led to the demise of the marriage.

To this day Matt has been sober approximately a year but has not made his peace with Gary where Tiffany has and wishes both parties could do so.

Tiffany became very emotional having heard the 911 tapes and the FM 106.1 recording of the shooting event whereas she describes it there is a clear bang on a door and immediately gun fire all of which took place in less than a second and a half. She does not believe under these

circumstances that Gary would have pulled or used a weapon had he had any idea that the people seeking entry into his house were law enforcement. She, like so many others believe that the potential method and danger of same could have been avoided if Gary had simply been called to the Sheriff's office to come in and chat.

Lastly, she is concerned that there is a political angle to the existence to this case. She believes that two weeks prior to these arrests that Wallace had announced that he was running for Sheriff thereby turning down a position of being the Pulaski County Sheriff office's drug zar in favor of running against the current Sheriff. Tiffany is not shy or bashful in her representations to the undersigned (whom she had never spoken or knew prior to the telephone call). Tiffany also believes strongly in her dad's view of right from wrong and belief of putting drug dealers in jail was his purpose as both a Casey County Constable and Pulaski County Constable. She simply does not believe the veracity of the official line of this case.

CHAD AND BRAD BALDOCK

Chad and Brad would be considered together as they are the product of Donna Sue and Gary's marriage. Both men are married with children and stand by their father, steadfastly, would provide him a home and a residence if necessary and would offer themselves as the eyes and ears of the Court to insure that their father abides by all terms and conditions of any bond if there might be.

Chad and Brad, both prior to the undersigned being retained, spoke to neighbors of Gary's in his subdivision and have listened to the 911 tapes and have conducted their own interviews of those neighbors, some of whom, will testify that the bullhorn and blue lights did not occur until after the shots were fired. While this is an issue of fact ultimately for the jury to work out it is somewhat consistent with other reports that (1) it was unnecessary for police to

knockdown a door to effect an arrest when lesser invasive and risky arrest tactics should have been used and (2) that it is possible that normal procedures were not followed leading to the shooting. Both, Brad and Chad, believe in their father's innocence and basic sense goodness, decency, and the seriousness with which their father took law enforcement and played by the rules.

TOMMY MILLER AND ANDREW LAY

Tommy Miller and Andrew Lay have submitted letters and unfortunately were not able to be contacted by the undersigned in preparation in time for the memorandum. Mr. Lay is currently a police officer in the Harrodsburg Police Department and by evidence contained in his note attached herewith has been friends of Gary Baldock's for a long period of time and is an active duty police officer whose opinion is attached herewith.

ARGUMENT

18 USC sec. 3142(g) directs the Court in determining whether there are conditions of release that will reasonably assure the appearance of the person as a required in the safety of any other person in the community to take in the available information concerning – 1 the nature and circumstances of the offense, 2 - the weight of the evidence against the person, 3- the history and characteristics of the person including a number of specific factors, and 4 – the nature and seriousness of the danger to any person of the community that will be posed by the person's release.

It is inarguable that the allegation as returned by the grand jury as attempted murder of an FBI agent is a serious offense. The underlying offense of violation of individual's civil rights, while a serious offense that carries with it up to 10 years in prison is not a presumption case as

this is and in fact the co-Defendant, who appears to have, by the co-Defendant's own words, in his memorandum for severance that ".....Mr. Wallace was the sole target of the civil rights conspiracy allegations.....", and Mr. Wallace makes immediate bond. Thus, Counts 2 and 3 are the burdensome, presumptive counts.

While as a Detention Hearing as modified is not the fertile ground that a Probable Cause Hearing might provide or a full Evidentiary Hearing might provide as to the circumstances of the attempted arrest, the forcible entry into the residence with the exchange of gun fire, at this point counsel for Mr. Baldock does not have any discovery concerning the ballistics, the type of bullet that hit the FBI officer, its caliber or current location, nor the number of shots that were exchanged but counsel has seen the layout of the house, knows where the Defendant allegedly was, and cannot help but wonder based on the character information gleaned from above why it was necessary to effect the arrest in such a way as it was effected given the fact that the potential arrestee was a Constitutionally elected representative in Pulaski County and for all intents and purposes having not violated any law in his lifetime and yet had to have his house broken into, both front and back doors with shots exchanged.

There is, in Kentucky, a statute which protects the homeowner from people breaking in and it is relevant in mitigation that the 911 calls came from Mr. Baldock to the 911 center that he was being broken into and the second call that he had been shot. As to whether or not a bullhorn and proper blue light notification took place before or after the shooting and break-in is a matter of proof, which counsel cannot speak to without significant review of the necessary discovery.

It is also difficult to image the statute under which the Defendant is now charged by the grand jury that at that time in the morning presumed time of sleep that while officers were breaking into his home that the Defendant had time to commit a premeditated malice

aforethought act of shooting and attempting to kill someone who the Defendant will say had not properly identified themselves as law enforcement and which is completely inconsistent with his prior behavior. Again, without arguing the merits of the case counsel realizes that the nature and circumstance of an allegation of premeditated attempt of murder of an FBI agent is serious to the extreme.

Counsel is aware of the weight of the evidence in Count 1 because counsel has reviewed that evidence and it does appear consistent with Mr. Wallace's pleading that the target of the civil rights violation was properly primarily focused on Mr. Wallace and not on Mr. Baldock. The evidence concerning the shooting as previously stated above has not been reviewed by counsel and while counsel is loath to make conclusions without facts there are certain oddities of the arrest which bare more scrutiny as the discovery process goes on.

Thirdly, the person's character and history in multiple different respects similar to that of 3553(A) deserve scrutiny as well. Mr. Baldock has no criminal history whatsoever. He owns a residence in Pulaski County and he owns a farm gate business that he has been working for 25 years without blemish of a civil or criminal act of his record. He has 2 ex-wives, who are still caring and concerned for him, and 2 children and 2 step-children who are also caring and concerned for him. His finances all derive from lawful employment as a Constable and as a fence gate seller. He pays taxes and has survived an election amongst his people for Constable in Pulaski County. To counsel's understanding he has no drug history, no alcohol abuse history, no criminal history, has never failed to appear at a Court hearing and in fact it's just the opposite he has appeared at multiple hearings where he was the complaining witness in a criminal case with a drug dealing Defendant.

At the time of the arrest the Defendant was neither on probation, parole, conditional discharge, or any other possible or potential criminal sanction and has never been charged with any offense, in fact he is a well respected, well decorated police officer who has earned the trust of the population of Pulaski County and protecting its citizens against the ravages of drugs.

Lastly, the Court is to determine whether his release would be a danger to any person simply by nature of his release.

THE PLAN

Mr. Baldock has now been shot, hospitalized and jailed since March 6, 2020. He vigorously denies his guilt in counts 1 and 2 and believes he has overcome the presumption against release by the statutorily provide consideration the factors set forth above. Mr. Baldock has no assets anywhere other than Pulaski County but has children and step-children and a significant history in both Pulaski and Casey Counties, which are the only two counties in which he has ever lived. He has a resplendent work history as a businessman and up to his arrest a flawless reputation in both counties.

The Defendant will give up his badge and service weapon as well and will not practice law enforcement as an additional term of release.

He believes he has approximately \$50,000 in equity in his home and he is willing to post the equity in his home to be released on home detention with electronic monitoring only to be released to see counsel, medical providers, and to check in with probation officers. There is not a shred of evidence that he has any history of drug or alcohol use or abuse but the safety of the public is not at risk with the plan as noted above and the Court is urged to consider the whole man not just the events of one very dark morning without a complete and flushing out of the facts leading up to the entry into his residence.

Respectfully submitted,

/s/ Andrew M. Stephens
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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2020, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to the parties.

/s/ Andrew M. Stephens
ANDREW M. STEPHENS