

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
NO. 12-MJ-658 (TNL)

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAFAEL HERNANDEZ-ORTIZ,

Defendant.

**ORDER OF DETENTION**

This matter came before the Court on October 1, 2012 for a removal and detention hearing. The government was represented by Assistant U.S. Attorney William Otteson. The defendant was present and represented by Assistant Federal Defender Reggie Aligada.

The defendant knowingly and voluntarily waived the removal portion of the hearing, and admitted that he is the defendant named in the Superseding Indictment issued by the grand jury in the Western District of Missouri.

Regarding detention, the Court and the parties had available to them the Report of Pretrial Services which recommended detention. The government also supplied Exhibit 1, without objection by the defendant, which was a printout of the defendant's prior law enforcement encounters with the U.S. Immigration & Customs Enforcement ("ICE"). Based upon that record and the arguments presented, the Court concluded that there was no condition or combination of conditions that could reasonably assure the defendant's appearance in court.

**FINDINGS OF FACT**

The defendant is a citizen of Mexico and an illegal alien who at the time of his arrest was living with his girlfriend in Owatonna, Minnesota. He has substantial family ties to Mexico. He has no family ties to Minnesota or Missouri, the charging district. He is charged with conspiracy to harbor and transport illegal aliens, and is part of a multi-defendant indictment that alleges, among other things, use of counterfeit identifications by illegal aliens. He faces a statutory maximum term of imprisonment of 15 years.

The defendant is currently in immigration removal proceedings. At the commencement of those proceedings in January 2012, he posted a \$10,000 cash bond despite being unemployed. The defendant also had \$420 in cash on his person at the time of his arrest in September 2012. Government Exhibit 1 reflects that, on at least one prior ICE encounter with the defendant at the Mexican border, the defendant used an alias. Government Exhibit 1 also reflects that the defendant in previous ICE encounters has supplied at least three different dates of birth.

**CONCLUSION OF LAW**

Based upon the above findings of fact, the Court concludes by a preponderance of the evidence that no condition or combination of conditions of bond will reasonably assure the defendant's appearance in court.

Accordingly, IT IS HEREBY ORDERED that:

1. The motion of the United States for detention of defendant is GRANTED;
2. Defendant is committed to the custody of the Attorney General for confinement in a corrections facility, and shall be separated, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
3. Defendant shall be afforded reasonable opportunity to consult privately with counsel; and
4. Upon order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined shall deliver him to the United States Marshal for the purpose of appearance in connection with a court proceeding.

Date: October 5, 2012

s/Tony N. Leung  
Tony N. Leung  
U.S. Magistrate Judge

A true printed copy in 3 sheet(s)  
of the electronic record filed on 10/5/12  
in the United States District Court  
for the District of Minnesota.

CERTIFIED, October 9, 2012

RICHARD D. SLETTEN

BY: Jenny Deussen Farnham  
Deputy Clerk

CLOSED,INTERP,RULE5

**U.S. District Court  
District of Minnesota (DMN)  
CRIMINAL DOCKET FOR CASE #: 0:12-mj-00658-TNL-1**

Case title: USA v. Hernandez-Ortiz

Date Filed: 09/26/2012

Date Terminated: 10/02/2012

Assigned to: Magistrate Judge Tony N. Leung

**Defendant (1)**

**Rafael Hernandez-Ortiz**  
*TERMINATED: 10/02/2012*

represented by **Reynaldo A Aligada , Jr**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Public Defender or*  
*Community Defender Appointment*

3  
October 9, 2012  
Jenny Deussen Farnem

**Katherian D Roe**  
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*TERMINATED: 09/27/2012*  
*Designation: Public Defender or*  
*Community Defender Appointment*

**Pending Counts**

None

**Disposition**

**Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

18:371 and 8:1324(a)(1)(A)(ii)

**Disposition****Plaintiff**

USA

represented by **William J Otteson**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
09/26/2012	●	Arrest (Rule 5) of Rafael Hernandez-Ortiz. (GMO) (Entered: 09/26/2012)
09/26/2012	● <u>1</u>	Minute Entry for proceedings held before Magistrate Judge Tony N. Leung:Initial Appearance in Rule 5(c) (3) Proceedings as to Rafael Hernandez-Ortiz held on 9/26/2012. Counsel to be appointed. Temporary detention ordered. ( Detention Hearing and Removal Hearing set for 10/1/2012 03:00 PM in Courtroom 3A (STP) before Magistrate Judge Tony N. Leung.) Charges from Another District: Western District of Missouri, St. Joseph Division. Amy Johnson/Spanish Interpreter. (GMO) (Entered: 09/26/2012)
09/26/2012	● <u>2</u>	ORDER OF TEMPORARY DETENTION as to Rafael Hernandez-Ortiz. Detention/Removal Hearing set for 10/1/2012 03:00 PM in Courtroom 3A (STP) before Magistrate Judge Tony N. Leung. Signed by Magistrate Judge Tony N. Leung on 9/26/12. (GMO) (Entered: 09/26/2012)
09/27/2012	● <u>3</u>	NOTICE OF ATTORNEY APPEARANCE/SUBSTITUTION for Rafael Hernandez-Ortiz. (Aligada, Reynaldo) (Entered: 09/27/2012)
10/01/2012	● <u>4</u>	Minute Entry for proceedings held before Magistrate Judge Tony N. Leung:Detention and Removal Hearing as to Rafael Hernandez-Ortiz held on 10/1/2012; Counsel and Spanish Interpreter Amy Johnson present; Deft Ordered Detained - Govt to submit proposed order; Removal Order to be Issued; Commitment to Another District to be Issued; Defendant waived his right to a removal hearing. (jdf) (Entered: 10/02/2012)
10/02/2012	● <u>5</u>	COMMITMENT TO ANOTHER DISTRICT as to Rafael Hernandez-Ortiz. Defendant committed to District of Western District of Missouri, St. Joseph

		Division. Signed by Magistrate Judge Tony N. Leung on 10/2/12. 2 c/c USM (jdf) Modified text on 10/2/2012 (jdf). (Entered: 10/02/2012)
10/02/2012	6	ORDER OF REMOVAL to District of Western District of Missouri, St. Joseph Division as to Rafael Hernandez-Ortiz. Signed by Magistrate Judge Tony N. Leung on 10/2/12. (jdf) (Entered: 10/02/2012)
10/02/2012	7	TRANSMITTAL LETTER - Rule 5 Removal as to Rafael Hernandez-Ortiz. (jdf) (Entered: 10/02/2012)
10/05/2012	8	ORDER OF DETENTION as to Rafael Hernandez-Ortiz. Signed by Magistrate Judge Tony N. Leung on 10/5/12. (jdf) Modified file date on 10/9/2012 (jdf). (Entered: 10/09/2012)
10/09/2012	9	TRANSMITTAL LETTER - Rule 5 Removal as to Rafael Hernandez-Ortiz. (jdf) (Entered: 10/09/2012)