

No. 17-1336

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
May 24, 2017
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff-Appellee,)
)
v.)
)
OLIVER SCHMIDT,)
)
Defendant-Appellant.)

ORDER

Before: SUHRHEINRICH, MOORE, and COOK, Circuit Judges.

Oliver Schmidt, a citizen of Germany, is indicted on charges arising from a scheme by Volkswagen AG to avoid compliance with emission standards for its vehicles sold in the United States by using software designed to defeat emission tests. He is charged with (1) conspiracy to defraud the United States, to commit wire fraud, and to violate the Clean Air Act; (2) two counts of making false statements in violation of the Clean Air Act; and (3) eight counts of wire fraud. Schmidt was ordered detained pending trial, and he appeals that ruling. The government maintains that the pretrial detention order should be affirmed. We unanimously conclude that oral argument is unnecessary. *See* Fed. R. App. P. 34(a)(2)(C).

Our review of the district court’s factual determinations is for clear error. *United States v. Stone*, 608 F.3d 939, 945 (6th Cir. 2010). We review mixed questions of law and fact, including whether detention is warranted, *de novo*. *Id.* A defendant must be detained pending trial if, after conducting a hearing, a judicial officer determines that “no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community[.]” 18 U.S.C. § 3142(e)(1). In making an individualized determination, the

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judicial officer must take into account any available information concerning: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release. *Id.* §§ 3142(g)(1)–(4).

After considering the § 3142(g) factors, the district court found that Schmidt was a risk of flight. The record demonstrates that the district court considered the relevant statutory factors, and we find no clear error in the district court's factual findings. Upon *de novo* review, we agree that no condition or combination of conditions will reasonably assure Schmidt's appearance as required. The district court's pretrial detention order is **AFFIRMED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

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Filed: May 24, 2017

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Mr. Benjamin Singer

Re: Case No. 17-1336, *USA v. Oliver Schmidt*
Originating Case No. : 2:16-cr-20394-6

Dear Counsel:

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Patricia J. Elder
Senior Case Manager
Direct Dial No. 513-564-7034

cc: Mr. David J. Weaver

Enclosure

Mandate to issue