

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted February 12, 2008
February 25, 2008

Before

FRANK H. EASTERBROOK, Chief Judge

WILLIAM J. BAUER, Circuit Judge

RICHARD A. POSNER, Circuit Judge

No. 08-1335

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ANTONIN REZKO, also known as
TONY REZKO.,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division

No. 05 CR 691

Amy J. St. Eve,
Judge.

ORDER

The district court released defendant Antoin Rezko on bail pending his trial. Because Rezko is a citizen of Syria in addition to the United States, and frequently travels on business to nations that lack extradition treaties with the United States, the judge expressed concern that he would not appear for trial. An elaborate inquiry into his finances was conducted, and even though Rezko assured the court that he had a negative net worth and no financial reason to flee (or means to do so), the judge was especially concerned about a 62-acre parcel of undeveloped land in Chicago in which Rezko held a large interest. Rezko assured the judge that the ownership interest was illiquid. The judge addressed this comment to Rezko on the record:

If something changes with respect to the status of the 62 acres that we talked about and that I asked you multiple questions on, you must notify the Court immediately.

And to his lawyer the judge added: "If the status changes in any way, if he is liquidating assets, if he gets income ... then you must notify the Court."

A few months later one of Rezko's business partners loaned him \$3.5 million against his interest in the 62-acre parcel. Rezko did not inform the court--supposedly on the advice of counsel that none of the court's directives applied to loans. (We say "supposedly" because the actual advice of counsel is not in the record.) Some of the money went to pay lawyers; some was paid over to friends; about \$700,000 was deposited in accounts controlled by his immediate family. Four months later Rezko surrendered some of his interest in the 62-acre parcel, and the \$3.5 million loan was forgiven. Again Rezko did not report to the court, supposedly on the theory that neither the formal conditions of bail nor the instructions in open court concerned the forgiveness of debt. But the loan and the forgiveness together amounted to the sale, for cash, of some of Rezko's assets, which surely had to be reported yet was not. In December 2008, when the prosecutor discovered these transactions, Rezko was negotiating to sell more of his interest and still had not informed the court.

The district court revoked Rezko's bond and ordered him detained pending trial. The judge found that Rezko had violated a term of his release by failing to report these transactions immediately, and that by converting the real estate to cash Rezko was taking a step that would make flight both more feasible and more attractive. That these transactions were conducted in secret, and the proceeds distributed so that none of them was held under Rezko's name, reinforced the judge's concerns.

After reviewing the parties' submissions, we share the district court's view. Perhaps all of these transactions are innocent, but district judges must act when the risks of flight change materially and a plan of concealment could well make life as a fugitive tolerable for the defendant. The order revoking Rezko's bail is affirmed.