

Nos. 10-1726 & 10-1819

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jun 28, 2010
LEONARD GREEN, Clerk

UNITED STATES OF AMERICA,)
)
 Plaintiff-Appellee,)
)
 v.)
)
 PETER HENDRICKSON,)
)
 Defendant-Appellant.)

O R D E R

Before: KEITH, MARTIN, and GUY, Circuit Judges.

The defendant appeals his conviction of willfully filing false documents in violation of 26 U.S.C. § 7206(1). (No. 10-1726). He is scheduled to report to begin serving his 33-month sentence on June 29, 2010, and he moves for release on bond pending appeal. The district court denied a similar motion for release on June 9, 2010, and the defendant also appeals that order. (No. 10-1819). The government opposes the defendant’s motion for release on bond.

The defendant may be released pending appeal if he shows: 1) by clear and convincing evidence that he is not likely to flee or pose a danger to the safety of another person or the community; and 2) that his appeal is not for delay and raises a substantial question of law or fact likely to result in reversal, an order for a new trial, a sentence that does not include a term of imprisonment, or a sentence reduced to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process. 18 U.S.C. § 3143(b)(1); *United States v. Chilingirian*, 280 F.3d 704, 709 (6th Cir. 2002). This statute creates a presumption against release pending appeal. *See United States v. Roach*, 502 F.3d 425, 446-47 (6th Cir. 2007), *cert. denied*, 553

Nos. 10-1726 & 10-1819

- 2 -

U.S. 1006 (2008) (affirming the denial of release pending appeal because the defendant failed to raise a substantial question that would overcome the presumption against release); *United States v. Vance*, 851 F.2d 166, 168-69 (6th Cir.), *cert. denied*, 488 U.S. 893 (1988).

The defendant argues that he is not a danger and does not pose a risk of flight. The district court did not make any findings with respect to danger or risk of flight, and the record before this court does not support a finding that the release of the defendant would pose a danger or a risk of flight. However, the defendant has not demonstrated that his appeal raises a substantial question of law or fact as required by § 3143(b)(1). This court has consistently held that wages are taxable income. *See, e.g., Boggs v. Comm'r*, 569 F.3d 235, 238 (6th Cir. 2009); *Sawukaytis v. Comm'r*, 102 F. App'x 29, 33 (6th Cir.), *cert. denied*, 543 U.S. 1002 (2004); *Perkins v. Comm'r*, 746 F.2d 1187, 1188 (6th Cir. 1984). The argument asserted by the defendant, most of which are based on his inaccurate and faulty interpretation of the tax code, border on being frivolous or are not substantial. Thus, we cannot conclude that release on bail pending appeal is justified.

The motion for release on bond pending appeal is **DENIED**. The defendant's appeal from the denial of his motion for release pending appeal, Case No. 10-1819, is **DISMISSED** as moot.

ENTERED BY ORDER OF THE COURT



Clerk