

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case Number 92-81127

v.

Honorable David M. Lawson

GREGORY BROWN,

Defendant.

/

ORDER GRANTING DEFENDANT'S MOTION FOR BOND

This matter is before the Court on the defendant's motion for bond pending the redetermination on remand of his motion for reduction of sentence. In December of 2023, the Court resentenced the defendant, along with three of his co-defendants, under the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. The Court entered an amended judgment reducing the defendant's sentence to time served. Although the government appealed the Court's amended judgment, it did not seek to stay the decision, and the defendant was released from prison. By all accounts, he is leading a productive life. On October 14, 2025 — nearly three years after the defendant's release — the Sixth Circuit vacated the defendant's reduced sentence and remanded so that this Court could explain the application of the sentencing-package doctrine to the defendant's sentence. The defendant has moved for bond for the duration of these proceedings. The government did not respond to the defendant's motion and the time for doing so has lapsed. *See* E.D. Mich. LR 7.1(e)(1)(A). The relevant factors favor continuing the defendant's release on bond while further proceedings are conducted in this Court.

I.

Until 2022, defendant Gregory Brown was serving a life sentence for his role in a violent drug trafficking organization, the “Best Friends” gang, which began in the mid-1980s and whose members were responsible for at least eight homicides. In 1995, he was charged in a single superseding indictment with conspiracy to distribute and to possess with intent to distribute cocaine and cocaine base (crack), in violation of 21 U.S.C. §§ 841(a)(1) and 846; intentional killing in furtherance of a continuing criminal enterprise, in violation of 21 U.S.C. § 848(e)(1)(A); and the use or carrying of a firearm in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c). ECF No. 882. A jury convicted him at trial on all counts. Consistent with the then-mandatory Sentencing Guidelines, this Court’s predecessor sentenced the defendant to a total sentence of life in prison on the drug and intentional killing charges along with a 60-month concurrent sentence on the firearm charge. ECF No. 1592. The Sixth Circuit affirmed the defendant’s sentence on appeal. *United States v. Brown*, 221 F.3d 1336, at *1 (6th Cir. 2000) (table).

In 2019, Brown filed a motion to reduce his sentence under Section 404 of the First Step Act. Judge Cohn denied Brown’s motion, concluding that because the sentencing guideline range was calculated under the intentional killing section, U.S.S.G. § 2A1.1, he was ineligible for relief under the FSA. He moved for reconsideration of that decision, arguing in part that the so-called sentencing package doctrine allowed him to be re-sentenced on offenses not covered by the FSA. The government’s response did not address that argument, and it failed to object to it when it had other opportunities to do so. *See United States v. Dale*, --- F.4th ---, No. 23-1050, 2025 WL 2911058, at *4 (6th Cir. Oct. 14, 2025).

About the same time, Judge Cohn reached the same result as to one of Brown's co-defendants, who appealed the decision. The Sixth Circuit concluded that the defendant in fact was eligible for a sentence reduction under the First Step Act for his drug conspiracy conviction. ECF No. 2457, PageID.19480-81. In light of the Sixth Circuit's holding, this Court granted Brown's motion for reconsideration. The Court held that it "ha[d] the discretion [under the First Step Act] to reduce [Brown's] total sentence when a covered offense is involved." *United States v. Dale*, 615 F. Supp. 3d 692, 701 (E.D. Mich. 2022); ECF 2541. It therefore concluded that Brown and several co-defendants were eligible for re-sentencing and ordered the Probation Department to provide an updated report.

At the resentencing hearing in December of 2022, the Court reduced the Brown's sentence to time-served, imposed a period of supervised release, and issued an amended judgment shortly thereafter. The government did not seek to stay Brown's release from custody during the pendency of its appeal of the amended judgment. The government's appeal was consolidated with its appeals of Brown's three co-defendants' amended judgments.

On October 14, 2025, the Sixth Circuit vacated the Court's resentencing decision. It affirmed that offenses that are covered by the First Step Act and those that are not covered can be reduced under the sentencing package doctrine, but it remanded the case for further proceedings consistent with its decision for this Court to explain how that doctrine would apply to Brown's sentence. *See Dale*, 2025 WL 2911058, at *7, *12. The court made clear that "a district court has the discretion to reduce a sentence imposed for a non-covered offense when it is part of a sentencing package with a covered offense." *Id.* at *7. And in applying the doctrine, "[t]he operative question is whether there is reason to think that, at the time of sentencing, the two

sentences were interdependent.” *Id.* at *8 (quoting *United States v. Curtis*, 66 F.4th 690, 694 (7th Cir. 2023)).

II.

In the motion presently pending before the Court, the defendant asks to remain free on bail while the Court decides the issues on remand. Separately, he has filed a motion for compassionate release. The defendant emphasizes that he is likely entitled to a reduced sentence, as the Court previously concluded, because his covered and noncovered offenses were grouped at sentencing, and he has a viable path to post-conviction relief through his compassionate release motion. The defendant also maintains that a bond would preserve the status quo, since he has resided productively in the community since his December 2022 release from custody, and it would avoid unnecessary reincarceration in the event the Court resolves his section 404 claim in his favor.

III.

The circumstances here do not easily fit within any of the post-conviction bail provisions of Title 18. But section 3143 is a likely candidate because the defendant now stands in the position of an individual convicted of a crime whose sentence is contested. That section sets out varying standards for individuals who have been found guilty and are “awaiting imposition or execution of sentence,” 18 U.S.C. § 3143(a)(1), (2), and individuals who have been “sentenced to a term of imprisonment, and who ha[ve] filed an appeal or a petition for a writ of certiorari,” *id.* § 3143(b).

The former subsection directs detention for individuals like the defendant who were convicted of certain offenses, including those punishable by a possible life term, unless the Court “finds there is a substantial likelihood that a motion for acquittal or new trial will be granted” or the government recommends no term of incarceration. *Id.* § 3143(a)(2). The Court also must find “by clear and convincing evidence that the person is not likely to flee or pose a danger to any other

person or the community.” *Id.* § 3143(a)(2)(B). At least one court in this circuit has adopted the position that subsection (a) of section 3143 applies to defendants awaiting resentencing. *See United States v. Ednie*, No. 15-133, 2017 WL 6503401, at *2 (N.D. Ohio Oct. 13, 2017).

However, other courts have expressed doubt that subsection (a) supplies the appropriate standard. The Seventh Circuit, for instance, explained that subsection (a) applies “to the situation where a defendant is awaiting sentencing the first time, and does not apply where the defendant is awaiting resentencing not because there was an infirmity in the original sentence but because the vacation of a concurrent sentence might lead the sentencing judge to reconsider a sentence not vacated.” *United States v. Holzer*, 848 F.2d 822, 824 (7th Cir. 1988). The Fifth Circuit has adopted the reasoning of the Seventh Circuit and extended it one step further, holding that subsection (b) of the statute is “a far better fit” for a defendant awaiting resentencing with no presently pending appeal. *United States v. Olin*, 450 F.3d 583, 587 (5th Cir. 2006); *see also Edkins v. United States*, No. 13-14421, 2015 WL 871587, at *16 (E.D. Mich. Feb. 27, 2015) (adopting *Olin*’s holding that section 3143(b) “appl[ies] to defendants . . . who are awaiting resentencing but whose convictions have been affirmed.”).

Subsection (b) likewise directs detention unless the Court finds by “clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released” and they have an appeal that “is not for the purpose of delay and raises a substantial question of law or fact likely to result in” reversal, a new trial, a sentence that does not include imprisonment, or a term of imprisonment less than the total time already served “plus the expected duration of the appeal process.” 18 U.S.C. § 3143(b)(1)(A), (B)(i)-(iv).

The Court believes that the appropriate post-conviction bail statute to apply in the present circumstances is section 3143(b). Courts that have expressed concerns about applying subsection

(a) have explained that the provision embodies a slightly more lenient standard, driven by the reality that a sentence may be modest or a defendant “needs some time to get his affairs in order.” *Holzer*, 848 F.2d at 824. However, that justification has less force “where the defendant’s conviction has been upheld and a sentence . . . remanded solely to give the judge a chance to consider a possible” reduction since “[b]reaking a sentence in the middle does not promote any end other than reducing the effective penalty by allowing a holiday or, worse, providing an opportunity to escape.” *United States v. Krilich*, 178 F.3d 859, 861 (7th Cir. 1999), *as amended* (June 1, 1999) (per curiam) (cleaned up).

This rationale is not a perfect fit for a defendant like Mr. Brown, who was convicted of an offense triggering section (a)(2)’s heightened requirements and *already* has been released from custody on a resentencing that later was vacated (but not reversed) by the court of appeals. For such defendants, subsection (b)’s requirements are better suited to serve the twin purposes of protecting the public and allowing the defendant the opportunity to vet fully his arguments for relief.

The relevant factors prescribed by section 3143(b) weigh in favor of a bond while the proceedings on remand play out. First, there is clear evidence that convinces the Court that Brown will not flee or pose a danger to the community. Brown’s probation officer, who has been supervising him since his release three years ago, reports that Brown’s adjustment to supervision has been “fantastic,” and he has been cooperative since his release. Brown reports to the Probation Office as directed and has met with his probation officer in person several times. He maintains a stable residence and home visits have been conducted. He also has stable employment and has provided employment verification. There has been no unreported police contact, and there has been no indication of any violations. Brown has a supportive family, and he is a family man to

children and grandchildren. A criminal record check indicates no additional criminal activity or any warrants. Brown has a valid driver's license and has stable transportation. Even when considering the very serious offenses for which Brown was convicted, the probation officer characterizes him as "the poster child for correctional rehabilitation" and recommends bail.

Second, the proceedings on remand are not pursued for the purpose of delay, and the issues raised are substantial, as is evident from the opinion of the court of appeals remanding the case. The defendant has presented strong arguments that the re-sentencing proceedings on remand will result in a sentence substantially the same as the Court's prior determination, both because his covered and noncovered offenses grouped at sentencing and because of the arguments in his motion for a reduction in sentence under 18 U.S.C. § 3582(c)(1)(a). The defendant will have an opportunity to demonstrate the applicability of the sentencing package doctrine, and the government will have an opportunity to fix its "failure to timely address the sentencing-package issue." *Dale*, 2025 WL 2911058, at *12. The substantiality of these issues is beyond debate.

Finally, there is a significant likelihood that the resentencing will result in a "reduced sentence to a term of imprisonment less than the total of the time already served." 18 U.S.C. § 3143(b)(1)(B)(iv). If Brown prevails on remand, then it is likely that the previous, appealed sentence will be reimposed. As for now, the prospect of the defendant's return to custody after nearly three years of successful reintegration to the community presents an exceptional circumstance militating in favor of bail. By all accounts, the defendant has demonstrated model behavior while on supervised release. Disrupting that progress with reincarceration would be manifestly unjust.

IV.

Accordingly, it is **ORDERED** that the defendant's motion for bond (ECF No. 2598) is **GRANTED**. The defendant must execute appropriate bond papers and abide by the standard conditions usually applied to pretrial release in this district.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: November 13, 2025