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United States District Court
Western District of New York

United States of America,

Plaintiff

vs

Ricky Trecartin,

Defendant

NOTICE OF MOTION

07-M-58

PLEASE TAKE NOTICE that upon the affirmation of James P. Harrington, Esq., attorney for the accused, Ricky Trecartin, an application will made before the Hon. H. Kenneth Schroeder, United States Magistrate Judge, United States Courthouse, Buffalo, New York on the 26th day of June, 2007 at 4:00 p.m. for reconsideration of the detention order granted on June 20, 2007 for the reasons stated in the attached affirmation.

Dated: June 26, 2007

/s/

James P. Harrington, Esq.
Attorneys for Defendant
HARRINGTON & MAHONEY
1620 Statler Towers
Buffalo, New York 14202
(716) 853-3700
jph@harringtonmahoney.com

TO: United States Attorney
138 Delaware Avenue
Buffalo, New York 14202
Attention: William Gillmeister, Esq.

United States Probation
234 United States Courthouse
Buffalo, New York 14202
Attention: Tina Blackman

United States District Court
Western District of New York

United States of America,

Plaintiff

vs

Ricky Trecartin,

Defendant

AFFIRMATION

Indictment № 07-M-58

JAMES P. HARRINGTON, ESQ., affirms under the penalty of perjury:

1. I am an attorney at law admitted to practice before the United States District Court for the Western District of New York and have been retained to represent Ricky Trecartin in the matter.

2. It is my understanding that a detention hearing was held on June 20, 2007 and this Court entered an Order detaining Mr. Trecartin.

3. It is also my understanding that the government proceeded by a verbal proffer with no witnesses or evidence presented to the Court and that Mr. Trecartin's previous counsel did not make any concrete bail proposal to the Court nor arguments in rebuttal of the government's claims of risk of flight and dangerousness to the community.

4. Since I have been retained, I have explored the possibilities of sureties with Mr. Trecartin's family and friends to present to the Court.

5. Assistant United States Attorney William Gillmeister has also provided me with a compact disc which contains phones conversations referred to in the complaint and argued by Mr. Gillmeister at the detention hearing.

6. Based on the following new information, I am respectfully requesting that the Court

reconsider its detention order in this case and set bail and conditions of release.

7. In order to put the information in the proper context, I must repeat some of the information which the Court is already aware of through the pre-bail report provided by the United States Probation Office and other information given to the Court at the previous detention hearing.

BACKGROUND

8. Mr. Trecartin is 25 years old and is a Canadian citizen and has resided in Toronto, Ontario, Canada his entire life. His mother and two sisters also reside in Toronto.

9. He has been employed as a brick layer since he was 17 years old. Attached to this affirmation are several tax returns and pay stubs which his girlfriend, Filipa Sebastiao, was able to locate in his apartment. (Exhibit A)

10. For the past five years, he has been employed by the same company, 1656914 Ontario Limited, which is owned by Maria Amaro, who is Ms. Sebastiao's mother. (Exhibit B)

11. Joao Pinteus Sebastiao is the manager of the company. This company subcontracts which home builders to do brick laying work in the Toronto area. Mr. Pinteus Sebastiao is Ms. Amaro's husband and Ms. Sebastiao's father.

12. Ms. Sebastiao is Mr. Trecartin's longtime and steady girlfriend. Although they are not formally engaged, they intend to get married in the future.

13. Mr. Trecartin is an excellent and skilled brick layer and is very close to the Sebastiao family. Mr. Pinteus Sebastiao relies on Mr. Trecartin to assist him in operating the company.

14. The Sebastiao-Amaro family has provided me with \$25,000.00 in U.S. funds which is currently in my trust account to post as security for bail for Mr. Trecartin.

15. In addition, they are willing to sign a bond in whatever amount the Court deems appropriate to secure his appearance in court.

16. Mr. Sebastiao and Ms. Amaro own their home at [REDACTED] Ontario, Canada and there is no mortgage on this home. It is assessed for tax purposes for [REDACTED] Canadian), but they believe its value is substantially higher, probably [REDACTED] (Canadian). (Exhibit C)

17. In addition to signing a bond with the Court to assure Mr. Trecartin's appearance, they are also willing to execute any documents necessary to record a lien against their property in Canada if the Court deems it necessary.

RISK OF FLIGHT

18. Mr. Trecartin is a stable person with no previous criminal record and a long work history. He obviously has a close relationship with the potential sureties through his employment and relationship with their daughter.

19. Mr. Trecartin's mother, Franska Trecartin, resides in Toronto, but is in poor health and lives on a disability pension. Mr. Trecartin provides financial assistance to her and does errands and other chores for her every week. Mr. Trecartin's sisters also live in Toronto and can attest to the Court to his stability, character, and assistance he provides their mother.

20. Mr. Trecartin has never traveled outside of the Toronto area except for his recent vacation to Florida with Ms. Sebastiao when he was arrested.

21. This Court and the other Magistrate Judges in the Court have regularly granted bail to Canadian citizens for serious offenses such as the current one. In the past five years, I have represented numerous people charged with similar or more serious offenses who were Canadian citizens and who were released on bail pending the cases against them, e.g. U.S. v. Tran, 04-CR-

65A; U.S. v. Kim, 06-M-2205; U.S. v. Johnson, 06-Cr-427; U.S. v. Jagpal, 05-Cr-183S.

DANGEROUSNESS

22. It is my understanding that the primary argument of dangerousness against the Defendant is the nature of the crime.

23. In it of itself, the allegations of narcotic trafficking have not been held to be sufficient to meet the standard of proof for dangerousness.

24. Upon information and belief, no clear and convincing evidence has been presented to the Court regarding the alleged dangerousness of the Defendant.

25. The Court should also note that the alleged offense happened on November 1, 2005, twenty months ago.

26. Upon information and belief, the government does not possess any more alleged proof now than they did in November, 2005. If Mr. Trecartin was the dangerous person whom they now claim, the question is why they did not file charges against him in November, 2005, have him arrested in Canada, and seek to extradite him to the United States since this is an extraditable offense.

PROOF IN THIS CASE

27. The government relies upon cooperating defendants who were arrested coming into the United States on November 1, 2005.

28. The complaint and Mr. Gillmeister allege that there are recorded telephone conversations between a cooperating defendant in that case and Mr. Trecartin.

29. As stated above, Mr. Gillmeister has provided me with a copy of the recorded telephone conversations.

30. The complaint does not tell the Court that the person whom the cooperating defendant was talking to used the name of "Mike".

31. Although I am not a voice expert, I have met with Mr. Trecartin and spoken with him at length. I have also listened to the recorded conversations and can represent to the Court that the voice on the tape recording does not sound like Mr. Trecartin in any way.

32. The allegations in the complaint regarding these telephone conversations are conclusory and should not be considered by this Court by way of proffer of the government to demonstrate either strength of their case or potential dangerousness of Mr. Trecartin.

CONCLUSION

33. I am respectfully requesting that the Court reconsider bail for Mr. Trecartin and set reasonable conditions to permit his release from custody while this case is pending.

Dated: June 26, 2007

/s/

James P. Harrington

HARRINGTON & MAHONEY

Attorneys for Defendant

1620 Statler Towers

Buffalo, NY 14202-3093

Tele: (716) 853-3700

Facs: (716) 853-3710

jph@harringtonmahoney.com

United States District Court
Western District of New York

United States of America,

Plaintiff

vs

CERTIFICATE OF SERVICE

Ricky Trecartin,

07-M-58

Defendant

Denise M. Dzierzewski, an employee with the law firm of Harrington & Mahoney with an office located at 1620 Statler Towers, Buffalo, New York 14202-3093 states that on June 26, 2007 **Notice of Motion** was electronically filed with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

1. Assistant United States Attorney William Gillmeister

I also hereby certify that the following non-CM/ECF participants have been served via hand delivery:

1. United States Probation, 234 United States Courthouse, Buffalo, New York 14202, Attention: Tina Blackman

/s/

Denise M. Dzierzewski

Sworn before me this
26th day of June, 2007.

/s/

Ivonne DeLuca
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 9/7/07

EXHIBIT A



Canada Revenue
Agency

T1 GENERAL 2006

Income Tax and Benefit Return

Complete all the sections that apply to you in order to benefit from amounts to which you are entitled.

Identification

ON 7

First name and initial

RICKY

Last name

TRE CARTEN

Mailing address: Apt No - Street No Street name

PO Box

RR

City

Province Postal code

ON

Information about your residence

Enter your province or territory of residence on December 31, 2006: Ontario

Enter the province or territory where you currently reside if it is not the same as that shown above for your mailing address:

If you were self-employed in 2006, enter the province or territory of self-employment:

If you became or ceased to be a resident of Canada in 2006, give the date of:
entry or departure

Information about you

Enter your social insurance number (SIN)

Year Month Day

Enter your date of birth:

Your language of correspondence:

Voire langue de correspondance:

English ☒ Français ☐

Check the box that applies to your marital status on Dec. 31, 2006:
(see the "Marital status" section in the guide for details)

1 ☐ Married 2 ☐ Living common-law 3 ☐ Widowed
4 ☐ Divorced 5 ☐ Separated 6 ☒ Single

Information about your spouse or common-law partner (if you checked box 1 or 2 above)

Enter his or her SIN:

Enter his or her first name:

Enter his or her net income for 2006 to claim certain credits:

Enter the amount of Universal Child Care Benefit included in his or her net world income above:

Check this box if he or she was self-employed in 2006: 1 ☐

Person Deceased in 2006

If this return is for a deceased person, enter the date of death:

Year Month Day

Do not use this area



Elections Canada

THIS SECTION APPLIES ONLY TO CANADIAN CITIZENS.

DO NOT ANSWER THIS QUESTION IF YOU ARE NOT A CANADIAN CITIZEN.

As a Canadian citizen, I authorize the Canada Revenue Agency to provide my name, address, and date of birth to Elections Canada for the National Register of Electors.

Yes ☐ 1 No ☒ 2

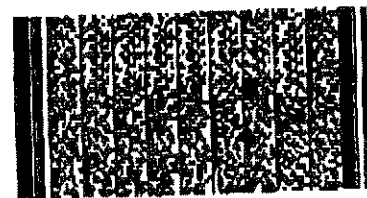
Your authorization is required each year. This information will be used only for purposes permitted under the Canada Elections Act.

Goods and services tax / harmonized sales tax (GST/HST) credit application

See the guide for details.

Are you applying for the GST/HST credit?

Yes ☒ 1 No ☐ 2



Do not

471

Please answer the following question:

Did you own or hold foreign property at any time in 2006 with a total cost of more than CANS\$100,000? (read the "Foreign income" section in the guide for details) 266 Yes ☐ 1 No ☒ 2

If yes, attach a completed Form T1135.

If you had dealings with a non-resident trust or corporation in 2006, see the "Foreign income" section in the guide.

As a Canadian resident, you have to report your income from all sources both inside and outside Canada.

Total income

Employment income (box 14 on all T4 slips)	101	
Commissions included on line 101 (box 42 on all T4 slips)	102	
Other employment income	104	
Old Age Security pension (box 18 on the T4A(OAS) slip)	113	
CPP or QPP benefits (box 20 on the T4A(P) slip)	114	
Disability benefits included on line 114 (box 16 on the T4A(P) slip)	152	
Other pensions or superannuation	115	
Universal Child Care Benefit (see the guide)	117	
Employment Insurance and other benefits (box 14 on the T4E slip)	118	
Taxable amount of dividends (eligible and other than eligible) from taxable Canadian corporations (see the guide and attach schedule 4)	120	
Taxable amount of dividends other than eligible dividends included on line 120, from taxable Canadian corporations	180	
Interest and other investment income (attach Schedule 4)	121	
Net partnership income: limited or non-active partners only (attach Schedule 4)	122	
Rental income	Gross 160	Net 126
Taxable capital gains (attach Schedule 3)		127
Support payments received	Total 156	Taxable amount 128
RRSP income (from all T4RSP slips)		129
Other income Specify:		130
Self-employment income (see lines 135 to 143 in the guide)		Net 138
Business income	Gross 162	Net 137
Professional income	Gross 164	Net 139
Commission income	Gross 166	Net 141
Farming income	Gross 168	Net 143
Fishing income	Gross 170	
Workers' compensation benefits (box 10 on the T5007 slip)	144	
Social assistance payments	145	
Net federal supplements (box 21 on the T4A(OAS) slip)	146	
Add lines 144, 145, and 146 (see line 250 in the guide).		147
Add lines 101, 104 to 143, and 147. This is your total income.		150

Summary

2004 Tax Return Summary

Taxpayer personal information

SIN [REDACTED]
 Name TRECARTIN, RICKY
 Care of [REDACTED]
 Street address [REDACTED]
 P.O. Box, R.R. [REDACTED]
 City [REDACTED]
 Province [REDACTED]
 Postal code [REDACTED]
 Home phone [REDACTED]
 Birthdate [REDACTED]
 Marital status [REDACTED]

Spousal information

SIN [REDACTED]
 Name [REDACTED]
 Birthdate [REDACTED]

Filing

Province of residence on 2004/12/31 Ontario
 Apply for GST/HST credit? ☒ Yes ☐ No
 EFILE this return? ☒ Yes ☐ No
 Is return discounted? ☒ Yes ☐ No
 Use preparer address for: Nothing

Total income

Employment income (box 14 on all T4 slips)

101

Other employment income

104

Employment insurance and other benefits (box 14 on all T4E slips)

119

Total income 150

Net income

Pension adjustment (box 52 on T4 slips, box 34 on T4E slips)

206

2,242.85

Annual union, professional, or like dues (box 44 on T4 slips, or from receipts)

212

Add lines 207 to 224, 229, 231 and 232

233

Net income 236

Taxable income

Taxable income 260

Non-refundable tax credits

Basic personal amount

claim \$8,012.00 300

PP or QPP contributions through employment

(maximum \$1,831.60) 306

Employment insurance premiums from box 18 on all T4 slips

(maximum \$772.20) 312

Add lines 300 to 326, and 332 335

Multiply the amount on line 335 by 16% = 338

Total federal non-refundable tax credits: Add lines 338 and 349. 350

Fund or balance owing

Net federal tax. 420

Provincial tax

428

Total payable 435

Total income tax deducted (from all information slips)

437

Canada Pension Plan overpayment (see line 448 in the guide)

448

Provincial tax credits

479

Total credits 482

Total payable minus total credits

Refund 484

2005

Estimated GST/HST credit

Annual

342.00

Quarterly

2003 Tax Return Summary

Employer personal information

Name
Address
City, Box, R.R.
Province
Postal code
Home phone
Birthdate
Marital status

Spousal Information

SIN
Name
Birthdate

Filing

Province of residence on 2003/12/31 Ontario

Apply for GST/HST credit? ☐ Yes ☒ No
EFILE this return? ☒ Yes ☐ No
Is return discounted? ☒ Yes ☐ No

Use preparer address for: Nothing

Total Income

Employment income (box 14 on all T4 slips)

101

Total Income 150

Net Income

Annual union, professional, or like dues (box 44 on T4 slips, or from receipts)

212

Add lines 207 to 224, 229, 231 and 232, 233

Net Income 236

Taxable Income

Taxable Income 260

Non-refundable tax credits

Basic personal amount

claim \$7,756.00 300

RRSP or QPP contributions through employment

(maximum \$1,801.60) 308

Employment insurance premiums from box 16 on all T4 slips

(maximum \$819.00) 312

Add lines 300 to 326, and 332

335

Multiply the amount on line 335 by 16% = 338

Total federal non-refundable tax credits: Add lines 338 and 349. 350

Refund or Balance owing

net federal tax. 420

Provincial tax

428

Total payable 435

Total income tax deducted (from all information slips)

437

Total credits 482

Total payable minus total credits

Refund 484

RRSP

RRSP contribution limit

1000914 ONTARIO LIMITED

CHEQUE NO. 00525

Treasurer: Betsy

000000

Regular
Vacation

Gross Pay

Gross Paid

Period YTD

Period YTD

EI

CPP

Tax

Working Dues

Union Dues

Withheld

Net Pay

Vacation Earned

EI Insurable Ho...

Copy of Rick's
Pay stub

working for my
father

1658814 ONTARIO LIMITED

Trecartin, Ricky

Regular
Vacation

Gross

19/04/2007

Regular
Vacation

Gross

For Pay Period: 13/04/2007

EI
CPP
Tax
Working Dues

Withheld

500

Gross
Withheld

Net

CHEQUE NO.

000500



Trecartin, Ricky

Regular.....

Vacation.....

Gross.....

For Pay Period: 24/11/2008

EI.....

CPP.....

Tax.....

Working Dues.....

Withheld.....

371

Gross.....

Withheld.....

Net.....

1855914 ONTARIO LIMITED

Trecartin, Ricky

Regular.....

Vacation.....

Gross.....

For Pay Period: 03/11/2008

EI.....

CPP.....

Tax.....

Working Dues.....

Withheld.....

CHEQUE NO.

00359

359

Gross.....

Withheld.....

Net.....

Net.....

Withheld.....

Gross.....

352

For Pay Period: 27/10/2008

Withheld.....

Union Dues.....

Working Dues.....

Tax.....

CPP.....

EI.....

Gross.....

Vacation.....

Regular.....

Trecartin, Ricky

00007

1855914 ONTARIO LIMITED

1656914 ONTARIO LIMITED

CHEQUE NO. 00510

Trecartin, Ricky

20/04/2007

For Pay Period: 20/04/2007

510

Regular @ 31.00/Hr
Vacation Paid

Gross Pay

Gross Paid

Period YTD

Period YTD

EI
CPP
Tax
Working Dues
Union Dues

Withheld

Net Pay

Vacation Earned
EI Insurable Ho...

1656914 ONTARIO LIMITED

CHEQUE NO. 00470

Trecartin, Ricky

22/03/2007

For Pay Period: 18/03/2007

470

Regular.....
Vacation.....

Gross.....

EI.....
CPP.....
Tax.....
Working Dues.....

Withheld.....

Gross.....
Withheld.....

Net.....

1656914 ONTARIO LIMITED

CHEQUE NO. 00385

Trecartin, Ricky

For Pay Period: 15/12/2006

385

Regular.....
Vacation.....

Gross.....

EI.....
CPP.....
Tax.....
Working Dues.....

Withheld.....

Gross.....
Withheld.....

Net.....

Regular: 31.00

00

EXHIBIT B

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Ministry of
Consumer and
Business Services

CERTIFICATE

This is to certify that these articles
are effective on

Ministère des Services
aux consommateurs
et aux entreprises

CERTIFICAT

Ceci certifie que les présents statuts
ont été enregistrés le

Ontario Corporation Number
Numéro de la société en Ontario



APRIL 18 AVRIL 2005

[Signature]
Director / Directeur

Business Corporations Act / Loi sur les sociétés par actions

ARTICLES OF INCORPORATION STATUTS CONSTITUTIFS

1. The name of the corporation is: (Set out in BLOCK CAPITAL LETTERS)
Dénomination sociale de la société : (Écrire en LETTRES MAJUSCULES SEULEMENT)

[Redacted Name]																			

2. The address of the corporation is:
Adresse de siège social :

[Redacted Address]

Street & Number or R.R. Number & if Multi-Office Building give Room No.
Rue et numéro ou numéro de la R.R. et, s'il s'agit d'un édifice à bureaux, numéro de bureau

TORONTO

(Name of Municipality or Post Office)
(Nom de la municipalité ou de bureau de poste)

(Postal Code)
(Code postal)

3. Number (or minimum and maximum number) of directors is/are:
Nombre (ou nombre minimum et maximum) d'administrateurs :

minimum/minimal

1 (ONE)

maximum/maximal

10 (TEN)

4. The first director(s) is/are:
Premier(s) administrateur(s) :

First name, middle name and surname
Prénoms, autres Prénoms et nom de famille

Address for service, giving Street & No. or R.R. No.,
Municipality, Province, Country and Postal Code
Domicile élu, y compris la rue et le numéro, le numéro de la
R.R. ou le nom de la municipalité, la province, le pays et le
code postal

Resident Canadian?
Yes or No
Résident canadien?
Oui/Non

Yes

EXHIBIT C

ASSESSMENT ROLL NO.

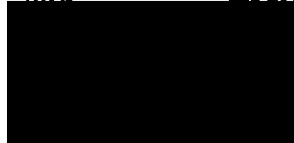
19-14-04-3250-02050-0000-0 1

Your final 2007 residence is comprised of a municipal portion and an education component. The municipal portion is your property's 2007 assessed value, as approved by the education component, as set by the Province.

If you are awaiting the Appeal or Request for Reconsideration, you will be advised that until the appeal is resolved, your property taxes will be assessed at the current rates.

If you are 50 years of age or older, disabled, or eligible for one of the City's Programs, you may be eligible for a Property Tax Bill under the Increase Deferral Program. For more information, see the brochure "Important Information on Property Tax Bill" under the Increase Deferral Program.

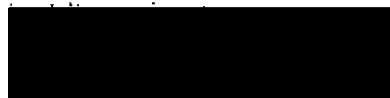
11341 142 275



LEGAL DESCRIPTION

PROPERTY LOCATION

ASSESSED OWNER



Assessment		Municipal		Education	
CLASS	VALUE	CITY LEVY	TAX RATE (%)	TAX RATE (%)	AMOUNT

Special Charges/Credits		City Adjustments		Summary	
-------------------------	--	------------------	--	---------	--

				Tax Levy Sub-Total (Municipal-Education)	
				Final 2007 Taxes	
				Less Interim Billing	

Total Amount Due

Total

PRE-AUTHORIZED TAX PAYMENT PROGRAM

Your tax payments are deducted from your financial institution account.

Please do not send payments.



Jul 3, 2007
Aug 1, 2007
Sep 4, 2007



If you have changed your financial institution information and have not notified the City, please fax a new void cheque to 416-392-0799 or mail to the address identified on the reverse side of this bill under Pre-Authorized Tax Payment Program details.

Explanation of Tax Changes 2006 to 2007

Final 2006 Levies

Final 2007 Levies



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