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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

 Plaintiff,
 vs.

AMMON BUNDY *et al*,

 Defendant.

Case No.: 3:16-mj-00004-1

**AMMON BUNDY’S MOTION FOR
REVOCATION OF PRETRIAL
DETENTION ORDER**

Ammon Bundy, through counsel, moves for revocation of the order of pretrial detention. Mr. Bundy requests, as suggested by the magistrate judge, that the District Court hearing be held on Tuesday, February 2, 2016, at 10:00 a.m. Mr. Bundy also requests that the District Court receive and consider further evidence at such *de novo* hearing.

18 U.S.C. § 3145(b) provides that “[i]f a person is ordered detained by a magistrate...the person may file, with the court having original jurisdiction over the offense, a motion for revocation...of the order.” *See also* Fed. R. Crim. P. 59(a). In review of the magistrate’s pretrial detention order, the District Court acts

de novo and must determine on its own whether or not detention is proper. *United States v. Koenig*, 912 F.2d 1190 (9th Cir. 1990).

On January 29, 2016, a pretrial detention hearing was held in this matter before a magistrate judge. During that hearing, the premise of the government's argument to detain Ammon Bundy rested on its allegations that Mr. Bundy was a risk to the safety of any other person or the community and that there was a serious risk that the defendant will flee. At that hearing, Pretrial Services recommended conditional release.

The Government cannot meet its burden of showing, by a preponderance of evidence that "no condition or combination of conditions will reasonably assure the [defendant's] appearance." 18 U.S.C. § 3142(e), (g); *United States v. Motamedi*, 767 F.2d 1403, 1407 (9th Cir. 1985).

The Government also failed to meet its burden to show that the court may not assure defendant's appearance at trial by, for example, as suggested by Pretrial Services, requiring Mr. Bundy not to leave Idaho except for court appearances or upon further permission of the Court, electronic GPS surveillance, etc.

Clear and convincing evidence must support a finding that no conditions of release will reasonably assure the safety of the community or another person, or a preponderance of the evidence must establish that conditions will not reasonably

assure a defendant's appearance. *See United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985).

Accordingly, Ammon Bundy respectfully requests that the magistrate's detention order be revoked and the District Court enter an order for pretrial release with the conditions recommended by Pretrial Services and cash bond if this Court deems appropriate.

DATED this 31st day of January 2016.

/s/ Michael Arnold
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