

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10263
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ISMAEL APOLINAR, also known as The Engineer,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(3:97-CR-408-19-P)

April 21, 1998

Before WIENER, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Ismael Apolinar appeals the district court's order both detaining him without bail and overruling the magistrate judge's order setting bail at \$100,000 cash bond. Apolinar contends that the Government failed to prove that he is a flight risk and that, because the detention hearing was untimely under 18 U.S.C. § 3142(f), the Government could not seek detention without bail.

The record supports the district court's determinations that the Government proved by a preponderance of the evidence that

* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Apolinar has strong ties to Mexico and is a flight risk; and that there is no condition, or combination of conditions, which would reasonably assure Apolinar's appearance at trial. See 18 U.S.C. § 3142(e); *United States v. Rueben*, 974 F.2d 580, 585-86 (5th Cir. 1992), cert. denied, 507 U.S. 940 (1993). Apolinar's contention that the Government waived the right to request detention without bail due to the untimeliness of the detention hearing is without merit. See *United States v. Montalvo-Murillo*, 495 U.S. 711, 716-21 (1990).

AFFIRMED