**UNITED STATES COURT OF APPEALS**
**FOR THE FIFTH CIRCUIT**

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**No. 94-50042**
**Summary Calendar**

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**UNITED STATES OF AMERICA,**

**Plaintiff-Appellee,**

**versus**

**KATHRYN P. HENSLER a/k/a**
**Kathy Hensler,**

**Defendant-Appellant.**

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**Appeal from the United States District Court**
**for the Western District of Texas**
**(93-CR-340-1)**

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(February 24, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

This is an appeal from a denial of bail pending trial. Finding no error, we affirm.

Appellant Kathryn Hensler (Hensler) is charged in an indictment filed November 17, 1993, with failure to appear for sentencing, 18 U.S.C. § 3146; possession of a firearm by a convicted felon, 18 U.S.C. § 922(g)(1); and possession of ammunition by a convicted felon, 18 U.S.C. § 922(g)(1). Count One is based on Hensler's failure to appear for sentencing upon a

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* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

conviction of mailing threatening communications to her alleged ex-husband, Tom Moore, a conviction now on appeal to this court.

Magistrate Judge John W. Primomo conducted a detention hearing at which Hensler and others testified. Judge Primomo ordered that Hensler be held in custody pending trial; he filed an eleven-page detention order stating findings and conclusions. Judge Primomo found that "no conditions of release will reasonably assure Hensler's appearance in Court [for trial]" and also that "she should be detained as a danger to Tom and Sue Moore."

Hensler filed a motion for the district court to revoke or amend the detention order. The motion asserted that (1) the detention order was "against the weight of the credible evidence"; (2) Judge Primomo should not have considered a psychiatric report which was appended to Hensler's presentence report in her case before Judge Prado; (3) Judge Primomo's order did not show that he had considered but had rejected alternatives to detention; and (4) the detention of Hensler violated due process because it impaired her ability to represent herself in several civil cases. The Government filed a response.

The district court, adopting the magistrate judge's detention order, denied Hensler's motion to revoke or amend it. Judge Garcia stated that he "reviewed de novo the entire record of the proceedings before the magistrate judge." The transcript of the detention hearing was filed six days before Judge Garcia filed his order.

On appeal, Hensler does not dispute any of the magistrate judge's factual findings, which the district court adopted. Furthermore, she neither reasserts the legal arguments which she

presented to the district court in her motion to revoke or amend the detention order, nor does she take issue with their rejection by the district court. Hensler's contentions on appeal are that she "was denied a de novo review in District Court . . . and was denied the right to submit new evidence pertinent to her detention." Memorandum of law, at 1.

"When the district court acts on a motion to revoke or amend a magistrate's pretrial detention order, the district court acts de novo and must make an independent determination of the proper pretrial detention or conditions for release." U.S. v. Rueben, 974 F.2d 580, 585 (5th Cir. 1992), cert. denied, 113 S.Ct. 1336 (1993). In its final order, the district court expressly states that the court "reviewed de novo the entire record of the proceedings before the magistrate judge," thereby complying with the abovestated rule.

Hensler's specific contention is that she was entitled to a de novo evidentiary hearing before the district court on her motion to revoke or amend the detention order. Memo at 1. She cites U.S. v. Williams, 753 F.2d 329 (4th Cir. 1985), for this proposition. Id. Williams held, however, that "in most cases, a trial court's review of a transcript of proceedings would, either as part of a de novo detention hearing, or as part of a review of a detention order under 18 U.S.C. § 3145(b) be sufficient to withstand appellate review." 753 F.2d at 334. The district court has discretion in determining whether to conduct a supplementary evidentiary hearing as part of its de novo review. U.S. v. Femia, 983 F.2d 1046 (1st Cir. 1983) (unpublished), Addendum E to Gov't's response, at 4. Accordingly, the district court has the discretion

to conduct its de novo review by examining the pleadings and the evidence which was developed before the magistrate judge and then adopting the magistrate judge's pretrial detention order. U.S. v. King, 849 F.2d 485, 490 (11th Cir. 1988). That is what Judge Garcia did in Hensler's case.

In her motion to revoke or amend the detention order, Hensler did not suggest that she wished to submit additional evidence to the court. Nor does she now suggest what any such evidence may consist of. Section 3142(f) provides in part that a detention hearing may be reopened "at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue[s] [of flight and the safety of others]." Thus, if Hensler has relevant new evidence, she may petition the magistrate judge to reopen the detention hearing.

In short, this court determines that the detention order was supported by the evidence adduced at the proceedings below, and there was no error lf law, consequently, we find no abuse of discretion. U.S. v. Rueben, 974 F.2d at 586.

AFFIRMED.