

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 02 CR 506
vs.	)	Judge Rebecca R. Pallmeyer
	)	
LAWRENCE E. WARNER and	)	
GEORGE H. RYAN, Sr.	)	

**GOVERNMENT'S MOTION FOR LEAVE TO RESPOND IN WRITING  
TO RYAN'S MOTION FOR RELEASE PENDING APPEAL**

Now comes the UNITED STATES OF AMERICA, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, and respectfully submits this motion for leave to respond in writing to Ryan's Motion for Release Pending Appeal on or before September 11, 2006.

In support of the motion, the government states as follows:

1. On August 31, 2006, prior to this Court's ruling on his post-trial motions for new trial and six days prior to his sentencing, defendant George H. Ryan, Sr., filed a motion for release on bond pending appeal. This motion is a reprise of Ryan's claims regarding jury issues that were the subject of his post-trial motions for new trial.

2. The government strongly disagrees with Ryan's claims regarding the jury issues, as it explained at length in its response to the defendants' post-trial motions. The government also strongly disagrees with Ryan's claim that bond pending appeal would be appropriate under 18 U.S.C. § 3143(b)(1). Ryan cites three issues, but each fails to meet the heavy burden imposed by the statute. Notably, Ryan fails to: 1) address the fact that the Court scrupulously followed Federal Rule of Criminal Procedure 24, which directly governs the replacement of deliberating jurors, and 2) acknowledge the deferential standard of review that will govern the appeal of all the jury rulings,

which were issued by this Court after painstaking and careful consideration. Further, the government takes issue with Ryan's argument that bond pending appeal is warranted by an issue's "unprecedented" nature. *See United States v. Bilanzich*, 771 F.2d 292, 298 (7<sup>th</sup> Cir. 1985).

3. The government is entitled to present a thorough response to Ryan's motion, and this can only be prepared after the Court has issued its rulings on the post-trial motions and after the Court has pronounced sentence.

4. There is no procedural requirement that a court consider a motion for bond pending appeal on the day that it sentences a defendant. Nor must such a motion be ruled upon prior to a defendant's filing of a notice of appeal. *United States v. Dettelis*, 2006 U.S. Dist. LEXIS 54010, \*3 (W.D.N.Y. July 26, 2006)(district court had jurisdiction to consider motion for release pending appeal notwithstanding defendant's filing of notice of appeal)(attached hereto as Exhibit 1). *See also United States v. Franchi*, 786 F. Supp. 520, 521 (W.D. Pa. 1991)(same). The only situation in which immediate review would be necessary would be one in which the law required, or the government demanded, immediate incarceration upon sentencing. Here it is anticipated that the Court will issue a reporting date, and the government will not object to that procedure.

WHEREFORE, the government respectfully requests that this Court grant the government leave to respond in writing to Ryan's motion for bond pending appeal on or before September 11,

2006, and that this Court defer consideration of Ryan's motion until after it has reviewed and considered the government's response and any reply filed by Ryan.

Respectfully submitted,

**PATRICK J. FITZGERALD**  
United States Attorney

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

The undersigned Assistant United States Attorney certifies that in accordance with FED. R. CRM. P. 5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following documents:

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were served pursuant to the district court's ECF system to the following ECF filers on September 1, 2006:

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