

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 17-23576-Civ-COOKE

RICARDO ALBERTO MARTINELLI
BERROCAL,

Petitioner,

vs.

JEFFERSON BEAUREGARD SESSIONS, III,
United States Attorney General, REX WAYNE
TILLERSON, United States Secretary of State,
ROBERT WILSON, Acting Warden of the
Federal Detention Center, Miami,

Respondents.

ORDER GRANTING PETITIONER’S MOTION FOR RELEASE ON BOND

THIS MATTER is before me upon Petitioner’s Motion for Release on Bond (ECF No. 21). The Government has filed a Response in Opposition (ECF No. 25) and Petitioner has filed a Reply (ECF No. 26). The matter is now ripe for review.

Having carefully considered the parties’ arguments, the record, and the relevant legal authorities, I find that I have jurisdiction to release Petitioner on bond. *See Jimenez v. Aristiguieta*, 314 F.2d 649, 652 (5th Cir. 1963) (“The District Court [has] inherent power as the habeas corpus court or judge to enter [an] order . . . respecting the custody or enlargement of [the petitioner].”).¹ I also find that, when viewed cumulatively, special circumstances exist to justify Petitioner’s release on bond, including his status as a former head of state of a sovereign nation with long-running relations with the United States, his advanced age and deterioration of health while in custody, and the possibility of success on appeal. *See In re Extradition of Ghandtchi*, 697 F.2d 1037, 1038 (11th Cir. 1983) (citing *Wright v. Henkel*, 190 U.S. 40, 63 (1903) (defendant in extradition case may be released on bail only in “special circumstances”)); *In re Matter of Requested Extradition of Kirby*, 106 F.3d 855, 863

¹ The Eleventh Circuit has adopted, as binding precedent, all decisions of the former Fifth Circuit handed down prior to close of business on September 30, 1981. *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

(9th Cir. 1996), *as amended* (Feb. 27, 1997) (finding special circumstances, taken together, justified release on bond); *Wroclawski v. United States*, 634 F. Supp. 2d 1003, 1009 (D. Ariz. 2009) (“The Court finds that this case presents several special circumstances that, when viewed cumulatively, compel a finding that Plaintiff is entitled to remain released during the pendency of his habeas corpus petition.”).

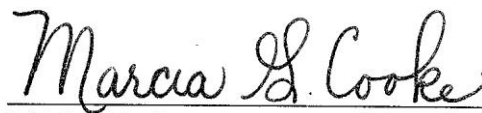
Accordingly, it is hereby **ORDERED and ADJUDGED** that Petitioner’s Motion for Release on Bond (ECF No. 21) is **GRANTED** with the following conditions:

1. Petitioner shall pay to the United States of America the sum of \$1,000,000 cash deposit.
2. Prior to his release, Petitioner shall provide his home address in Miami, Florida to the Court. Petitioner shall not change his home address without permission in writing from the Court.
3. Petitioner is required to appear in court at all times as required by notice given by the Court or its Clerk to Petitioner. Petitioner is required to ascertain from the Clerk of Court or counsel the time and place of all scheduled proceedings on the case. In no event may Petitioner assume that his case has been dismissed unless the Court has entered an Order of Dismissal.
4. Petitioner shall not commit any act in violation of state or federal laws.
5. Petitioner shall surrender any and all passports and travel documents to the Pretrial Services Officer, including any visas, etc., and shall not obtain any travel documents during the pendency of the case.
6. Petitioner shall report to Pretrial Services in person once a week as directed by the Pretrial Services Officer.
7. Petitioner may not sell, pledge, mortgage, hypothecate, encumber, etc., any property he owns, real or personal, until the bond is discharged, or otherwise modified by the Court.
8. Petitioner may not visit commercial transportation establishments: *airports, seaport/marinas, commercial bus terminals, train stations, etc.*
9. Petitioner shall participate in the HOME CONFINEMENT PROGRAM and abide by all the requirements of the program which will include electronic monitoring or other location verification system, paid for by Petitioner. Petitioner

is restricted to his residence at all times except for medical needs or treatment and court appearances.

10. Petitioner shall execute a waiver of extradition that will become operative if Petitioner should flee the Court's jurisdiction.
11. Petitioner shall follow any other conditions as may be imposed by his Pretrial Services Officer.
12. Violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for Petitioner's arrest, a revocation of release, an order of detention, as provided in 18 U.S.C. § 3148, forfeiture of any bail posted, and a prosecution for contempt as provided in 18 U.S.C. § 401, which could result in possible term of imprisonment or fine.

DONE and ORDERED in chambers, at Miami, Florida, this 13th day of February 2018.



MARCIA G. COOKE
United States District Judge

Copies furnished to:
Counsel of Record