

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|                                  |   |                        |
|----------------------------------|---|------------------------|
| UNITED STATES OF AMERICA,        | ) |                        |
|                                  | ) |                        |
| Plaintiff,                       | ) | No. 04 CR 372-1        |
|                                  | ) |                        |
| vs.                              | ) | Hon. Charles R. Norgle |
|                                  | ) |                        |
| MICHAEL VALLONE, <i>et al.</i> , | ) |                        |
|                                  | ) |                        |
| Defendants.                      | ) |                        |

**DEFENDANT MICHAEL VALLONE'S  
MOTION FOR RELEASE ON BOND PENDING SENTENCING**

Defendant Michael Vallone, by his undersigned lawyer, moves the Court for release on bond pending sentencing, which has been scheduled for August 28, 2008. This Motion proceeds in four parts: question presented, background, proposed additional condition of release, and analysis. In support of his Motion, the defendant states:

***Question Presented***

1. This Motion presents the following question:

Does there exist "clear and convincing evidence" that, if released on bond pending sentencing, Vallone "is not likely to flee"?  
18 U.S.C. § 3143.

(The other potentially relevant consideration—"pos[ing] a danger to the safety of any other person or the community if released," *id.*—is not

implicated here; there has never been any suggestion that Vallone poses any danger to anyone.)

***Background***

2. As the Court is aware, Vallone was recently convicted (along with the five other defendants on trial) of various offenses involving allegations of tax fraud (conspiracy, mail fraud, wire fraud, tax evasion), following a trial that lasted for over two months.

3. On May 19, 2008, after the jury returned the guilty verdicts, the government, citing “risk of flight,” moved for immediate detention of three of the defendants, the other two being Edward Bartoli and Timothy Shawn Dunn. (As the Court will recall, the three principals of the Aegis Company [the organization at the center of this case] were Vallone, Bartoli, and co-defendant Robert Hopper; Dunn was principally involved in sales and management.) As to Vallone and Dunn, the Court granted the government’s motion, denying it as to Bartoli.

4. Facts relevant to our request for release on bond include the following:

(a) *Age*: Vallone is 48 years old.

(b) *Marital Status*: Vallone is married. *See, e.g.*, 18 U.S.C. § 3142(g)(3)(A) (regarding the relevance of “family ties” to a release decision).

(c) *Employment*: Vallone is self-employed. *See, e.g., id.* (regarding the relevance of “employment” to a release decision).

(d) *Criminal History*: Vallone has no prior convictions. *See, e.g., id.* (regarding the relevance of “criminal history” to a release decision).

(e) *Health*: Vallone takes prescription medications for diabetes and high cholesterol. He has no “history relating to drug or alcohol abuse.” *Id.*

(f) *Ties to the Community*: Vallone has lived in the Chicago area for his entire life. For over 10 years, he has lived at his current home in Orland Park (11901 Brookshire Dr.; this home is implicated in the forfeiture allegations). *See, e.g., id.* (regarding the relevance of “length of residence in the community” and “community ties” to the release decision).

Vallone’s wife (Jamie Parnell Vallone) is also a longtime resident of the Chicago area, as is her mother (Karen Delashmint). *See, e.g., id.* (regarding the relevance of the two foregoing criteria, as well as “family ties,” to the release decision).

Vallone is an active member of the Sauk Trail Baptist Temple (4411 Sauk Trail, Richton Park, IL 60471; ph. #708.481.1490; [www.stbt.org](http://www.stbt.org)). In a telephone conversation today (May 21<sup>st</sup>), the

minister there, Bruce Humbert, provided the following information:

(i) Vallone has been a member of that church for about 10 years; (ii) he served for several years as a deacon; (iii) he is a member of the church choir; and (iv) he teaches an adult Bible study class on Sunday mornings. *See, e.g., id.* (regarding the relevance of “community ties” to the release decision).

(g) *Pretrial Release*: Vallone was arrested in this case in April of 2004. He was immediately released on bond (\$100,000.00 SECURED by real property located at 11901 Brookshire Drive, Orland Park, Illinois,” Docket Sheet, Item 6). Subsequently, those conditions were modified so as to eliminate the requirement of reporting to Pretrial Services. *See* Docket Sheet, Item 285.

Throughout this period of pretrial release (which lasted for nearly 4 years), as well as during this 2+-month trial, Vallone’s behavior was exemplary. Without fail, he appeared in court as required. He also complied fully with all other conditions of his release.

In connection with his pretrial release, Vallone surrendered his passport. *See* Docket Sheet, Item 18.

(h) *Representation by Court-Appointed Counsel*: Vallone was initially represented in this case by a privately retained lawyer

(Robert Sticht). However, due to financial setbacks relating to this prosecution, Vallone was not able to pay these legal fees.

Accordingly, after determining that Vallone qualified for court-appointed counsel under the Criminal Justice Act, 18 U.S.C. § 3006A, the Court appointed the undersigned lawyer to represent Vallone in this matter. *See* Docket Sheet, Items 202, 204.

(i) *Detention at Kankakee County Jail:* After being taken into custody on May 19th, Vallone was immediately taken to the Kankakee County Jail, where he has since been incarcerated. (As the Court is aware, this is one of several area jails that are used by the Bureau of Prisons on a contract basis, due to severe overcrowding at the Metropolitan Correctional Center.)

(j) *House Jointly Owned by Vallone's Wife and Her Mother:* Vallone's wife (Jamie Parnell Vallone) and her mother (Karen Delashmit) jointly own a house in Midlothian, Illinois. Ms. Delashmit lives in this house, having resided there since the 1970s. The home's current value is approximately \$200,000 (it was estimated at \$180,000 in 2004, in connection with obtaining a home-equity loan). The original mortgage on this house has been paid off. There is a home-equity loan connected to the house: payments on this loan are made monthly; the outstanding balance is approximately \$16,000.

### *Proposed Additional Condition of Release*

5. As a condition of Vallone's release pending sentencing, we propose that his release be secured by the residential property jointly owned by his wife and her mother. See ¶ 4(j), *supra*. Counsel has explained to both of them what it would mean, as a practical matter, if Vallone were released pursuant to this condition: that if, after being released, he then fled (or otherwise violated his conditions of release), they could lose this home to the government.

### *Analysis*

6. Given the foregoing facts, the applicable legal standard, and the proposed condition of release, we submit that this case more than satisfies the test set forth in section 3143. That is, there exists abundant "clear and convincing evidence" that, if released on bond pending sentencing with this condition, Vallone "is not likely to flee." 18 U.S.C. § 3143. Vallone has never posed any problem at all while under the Court's supervision—for a period of nearly four years. He has no criminal history. He has very strong family and community ties to the Chicago area. If he had any inclination to flee the jurisdiction, obviously he had plenty of time prior to trial in which to manifest such an intent; he did not. Finally, the proposed condition represents a meaningful burden, both financially and psychologically. Indeed, it is difficult to think of a single fact (as opposed to matters of mere

speculation) that would support a reasonable inference that, if released under these terms, Vallone would be “likely to flee.” 18 U.S.C. § 3143.

Accordingly, we ask that Vallone be released under these terms.

Respectfully submitted,

s/Richard H. McLeese  
Lawyer for Michael Vallone

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**CERTIFICATE OF SERVICE**

The undersigned lawyer hereby certifies that service of the above document was made through the district court's ECF system to opposing counsel and co-counsel on May 21, 2008.

s/Richard H. McLeese  
Lawyer for Michael Vallone