

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 16-20080-01-JAR

GEOFFREY ROTICH,

Defendant.

ORDER

Defendant has filed a motion (ECF doc. 11) to reopen his detention hearing pursuant to 18 U.S.C. § 3142(f) or, in the alternative, to review the order of detention pursuant to 18 U.S.C. § 3145. Following his arrest in Texas, defendant appeared before U.S. Magistrate Judge Jeffrey L. Cureton in the Northern District of Texas for a detention hearing. At the conclusion of the hearing, Judge Cureton ordered defendant detained and transported to the District of Kansas. Defendant had his initial appearance in this district before the undersigned U.S. Magistrate Judge, James P. O'Hara, on October 26, 2016, and appeared for his arraignment on November 2, 2016. On November 3, 2016, defendant filed the instant motion for reconsideration of his detention order.

The undersigned has reviewed and considered defendant's motion, as well as the government's response in opposition (ECF doc. 12). Neither filing mentions the seminal

Tenth Circuit case *United States v. Cisneros*.¹ *Cisneros* ruled that 18 U.S.C. § 3142(f) only “applies to reconsideration of a detention or release by *the same judicial officer* who entered the initial order.”² Under this rule, the undersigned concludes that neither he nor the presiding U.S. District Judge, Julie A. Robinson, has authority under 18 U.S.C. § 3142(f) to reopen the detention hearing held by Judge Cureton. Therefore, the portion of defendant’s motion seeking to reopen the hearing is denied.

Defendant’s alternative request for revocation of his detention under 18 U.S.C. § 3145 remains viable. That request, however, must be heard by Judge Robinson, rather than the undersigned.³ Judge Robinson is not available to conduct the previously scheduled motion hearing on November 10, 2016. Thus, the motion hearing is canceled. Defense counsel is directed to contact Judge Robinson’s chambers to discuss rescheduling the hearing for November 13 or 14, 2016, or for another date convenient to the court and parties.

IT IS SO ORDERED.

Dated November 9, 2016, at Kansas City, Kansas.

s/ James P. O’Hara
James P. O’Hara
U.S. Magistrate Judge

¹328 F.3d 610 (10th Cir. 2003).

²*Id.* at 614 (emphasis added).

³*See id.* at 615 (holding that it was improper for a magistrate judge to review the detention order of another magistrate judge under 18 U.S.C. § 3145, and that a motion under 18 U.S.C. § 3145 “should be ruled on directly by a district judge”).