

The Sun

Judge wrestled with decision to detain or release Ontario man in child porn case

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RIVERSIDE - A federal judge acknowledged in court Friday he had a difficult decision to make on whether an Ontario man, who had amassed a half million photographs of children in sexual positions, should remain detained in prison or be freed on bail.

Judge David T. Bristow said the issue was whether Peterson was considered to be a danger to the public, a flight risk and that the significant volume of images set the case apart from others involving similar crimes.

The judge further recognized that making the wrong decision could mean more victims.

"The problem with the 'danger' prong, if the court errs, it's too late," Bristow said in U.S. District Court in Riverside.

With his wrists and ankles in chains, 58-year-old Michael Peterson stood with his lawyer before Bristow and clasped his hands together - almost as if he were hoping for a miracle.

Peterson got it. After more than an hour of legal arguments, Bristow ordered Peterson eligible for release on \$250,000 bail after federal prosecutors fought hard to keep him behind bars.

Prosecutors alleged that Peterson had amassed the largest collection of child pornography at his home that federal agents say they had ever seen. The images and videos together filled about 600 gigabytes of space, they said.

Peterson's lawyer, Alan Eisner, argued that his client had no criminal record, no prior drug use, was a high-school graduate, held no passports and was in a 20-year-long

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relationship with a life partner.

When U.S. Immigration and Customs Enforcement (ICE) agents searched his home on July 8, Peterson hired a lawyer and waited for months while authorities searched the computers, hard drives and other electronic equipment that they seized. Peterson didn't flee.

"He knew this day was coming," the judge said. "The government didn't know what was on his computers. He did."

Peterson is charged with possessing and distributing child pornography. The images and videos he allegedly possessed contained children, between the ages of 18 months and 17 years old, posing nude or engaged in explicit acts with other children, with adults or both, according to the criminal complaint filed in U.S. District Court.

Assistant U.S. Attorney Ami Sheth argued that Peterson be detained, right from the start of the proceedings. She highlighted the volume of pornographic images and the location of Peterson's home - a half mile from a middle school.

Sheth also informed the court that Peterson was allegedly in the act of downloading child porn when agents arrived at his house to serve the search warrant. Some of the alleged images were password protected.

"His actions were intentional," Sheth told the judge. There's a question of whether he would have or would escalate contact with children, she said.

But the defense was quick to point out that no evidence was presented that Peterson ever tried to contact or lure children or chat online using sexual terms. Eisner also pointed out that prosecutors made no urgency request to detain Peterson after the July search.

The court's own pretrial service unit found Peterson to be a "minimal risk," the court revealed during the proceedings.

But Sheth kept up the fight to keep Peterson detained.

"It takes a different type of crime, a different type of criminal, to create the number that he had," Sheth said. She considered having Special Agent Frank Day, who investigated Peterson's electronics, immediately testify in court.

Day wasn't available, and Sheth informed the court that he would have testified that he found 600 gigabytes of suspected child pornography. She said Day also found additional non-pornographic photos of young boys at a county fair and an auto show, and of neighbors' children on Peterson's computer.

Eisner told the court that there is always a potential for danger, but conditions proposed by the court's pretrial services unit ameliorate that.

"This is a difficult case," Bristow said. "And it's difficult precisely because of the volume of images."

However, Bristow ruled that Peterson had met the burden of proof required for release on bail bond. The judge set bail at \$250,000 and noted that significant assets were available to cover the bond.

Once released, Peterson will be subject to intensive pretrial conditions, including home detention and electronic monitoring, according to Thom Mrozek, a spokesman for the U.S. Attorney's Office in Los Angeles.

Peterson waived his right to a preliminary hearing, where prosecutors would be required to present probable cause to the court to support the charges. He returns to court to enter a plea on the charges at arraignment on Jan. 4 in Riverside.

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