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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v.

DONALD BALL, DUSTIN HEARD,
NICHOLAS SLATTEN, PAUL SLOUGH,
AND EVAN LIBERTY,

Defendants.

**DEFENDANT PAUL A. SLOUGH'S
MEMORANDUM IN SUPPORT OF
MOTION FOR IMMEDIATE
PRETRIAL RELEASE**

Case No.:

Magistrate Judge Paul Warner

**DEFENDANT PAUL A. SLOUGH'S MEMORANDUM
IN SUPPORT OF MOTION FOR IMMEDIATE PRETRIAL RELEASE**

Defendant, Paul A. Slough, pursuant to Fed. R. Crim. P. 5(d) and 46 and 18 U.S.C. § 3142, respectfully moves this Court for an Order immediately releasing him on his personal recognizance in this matter. This motion provides the Court with a more comprehensive explanation of the history of this case and the characteristics that compellingly show the Court

that Mr. Slough – who adamantly asserts his innocence and will prove the government is wrong in its allegations – is not a risk of flight nor does he pose any danger to anyone in the community. To the contrary, Mr. Slough – despite knowing for months that he would be arrested and charged in this matter – has shown no indication whatsoever of trying to flee the jurisdiction or of presenting any threat or danger to anyone. Moreover, any effort by the Government to seek a seventy-two (72) hour hold pending a detention hearing should also be rejected. Prosecutors explicitly advised counsel that the Government would not seek detention for Defendants who surrendered in Washington, DC (and thereby waived a venue challenge), but would seek to detain Defendants who surrendered in Utah. Having conceded that Defendants are not candidates for detention in Washington, DC, the Government should not be heard to use the detention statute to punish those who surrender in a more appropriate venue where one of their number reside. The reasons supporting this motion are set forth below.

I. FACTUAL BACKGROUND

Paul Slough is 29 years old, married, and has been a resident and home-owner for two years in Keller, Texas. Mr. Slough was born in Texas and except for the time spent in service to this country has lived his entire life in that state. Mr. Slough and his wife, Christin Slough, are both employed full time and Mr. Slough has been advised that he would be able to continue his employment as a welder on pretrial release. Since May 2008, Mr. Slough has been attending community college at night, 25 hours a week after finishing work, taking courses in welding in order to improve his professional skills for his current employment.

Mr. Slough enlisted in the U.S. Army following his high school graduation in 1999. He served in the 3rd Infantry Division until 2002, receiving numerous decorations for honorable

service. Mr. Slough deployed to Bosnia from January to June 2000, as part of the peacekeeping force, and conducted security patrols while there. Following his 2002 honorable discharge from the U.S. Army, Mr. Slough enlisted in the Texas National Guard, where he served from 2002-2006. In January 2005, his Texas Guard division was deployed as part of Operation Iraqi Freedom. Mr. Slough served in Iraq for one year with the Texas Guard and operated in various locations within the country.

During his time in both the Army and Texas National Guard, Mr. Slough was highly respected by his peers and commanders. He received a number of awards and commendations including: the Army Commendation Medal, Army Good Conduct Medal, National Defense Service Medal, Combat Infantry Badge, Driver & Mechanic Badge, Armed Forces Expeditionary Medal, Armed Forces Reserve Medal, NATO Medal, Army Service Ribbon, Overseas Service Ribbon, and the Global War on Terrorism Service Medal.

In the spring of 2006, as a natural extension of his military experience and training, Mr. Slough joined Blackwater to serve in Iraq as a Protective Security Specialist. During his time at Blackwater, he was highly regarded and respected by his peers.

On September 16, 2007, Mr. Slough was working as part of a Blackwater Tactical Support Team ("TST") in Baghdad, Iraq known as "Raven 23." At approximately 11:30 AM that day, a massive car bomb (also referred to as a vehicle-borne improvised explosive device or "VBIED") detonated in close proximity to the Izdihar Compound, an Iraqi Government installation where a USAID official was visiting under the protection of a Blackwater security detail operating under the command and control of the Department of State's Regional Security Office for U.S. Embassy-Baghdad ("RSO-Baghdad"). In response, Raven 23 proceeded out of

the protected "Green Zone" into the city of Baghdad, to a location known as Nisour Square.

Their orders were to secure the traffic circle at Nisour Square, to facilitate the safe return of the USAID official, and her Blackwater protectors.

Shortly after Raven 23 entered the traffic circle, a white Kia sedan directly approached Raven 23 in a highly threatening manner, circumventing several other stopped Iraqi vehicles, ignoring the warnings of Blackwater personnel, and refusing to stop. Raven 23 personnel immediately identified the white Kia as a potential car bomb and it is alleged that they halted the car by means of defensive fire. At approximately the same time – or shortly thereafter – the members of Raven 23 began receiving gun fire from several different directions, which threatened the entire convoy and posed an especially lethal risk to the seven turret gunners who were exposed without the benefit of armored protection. In the deadly two-way firefight that ensued, it is alleged that various Blackwater guards returned fire in order to protect their lives and the lives of their teammates from incoming hostile fire.

In the days after the firefight at Nisour Square, media reports indicated that a number of Iraqi civilians were killed or injured in the course of the battle. The civilian casualties that occurred in the course of the Nisour Square battle give rise to the present charges against Mr. Slough and four other Blackwater guards who were part of the Raven 23 team.

Over a year ago, Mr. Slough retained his present counsel, based in Washington, D.C., to represent him in this matter. During the course of that year, Mr. Slough's counsel has been in regular contact with the Assistant U.S. Attorney, Kenneth Kohl, who is conducting the investigation. Almost six months ago, in June of this year, Mr. Slough was informed by Mr. Kohl that he was a "target" of the investigation. Counsel for Mr. Slough had a number of

discussions with AUSA Kohl about the case, culminating in an extensive presentation made to AUSA Kohl and supervisory Department of Justice officials by counsel for Mr. Slough along with the lawyers representing the other five persons named as targets of the investigation.

Since learning that he was a target of the investigation, almost six months ago, not only has Mr. Slough not given any indication that he is a risk of flight or a danger to the community, but precisely the opposite: He has given every indication of participating in the legal process to fight the allegations and prove his innocence. Again, after being told three weeks ago that he would be indicted, Mr. Slough gave no indication of being a risk of flight or a danger, but rather offered to self-surrender once he was told an indictment was handed down. In short, *despite the fact that Mr. Slough knew for more almost six months that it was likely he would be arrested and charged and upon learning of the indictment , Mr. Slough maintained his stable residence, full-time employment and attended college at night .*

II. LEGAL ANALYSIS

A. The Legal Standard

Pretrial release and detention are governed by 18 U.S.C. § 3142. Under 18 U.S.C. §§ 3142(e) and (f), a defendant may be detained only if the court finds by clear and convincing evidence that there are no conditions of release that will reasonably assure the defendant's appearance in court or the safety of any person and the community. 18 U.S.C. § 3142(e); *see also United States v. Cisneros*, 328 F.3d 610, 616 (10th Cir. 2003). In making this determination, the court must consider the following factors: (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug; (2) the weight of the evidence against the person; (3) the history and characteristics of the person; and