



Insights

Sean Buckley and Amanda Tuminelli on Pretrial Release Strategies for Wealthy Defendants in Law360

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Ghislaine Maxwell became the latest in a string of defendants held in pretrial detention in part because of her significant financial resources. With home confinement being more comfortable and allowing easier coordination with counsel, what can wealthy defendants do to make pretrial release more likely? Kobre & Kim's Sean Buckley and Amanda Tuminelli explain in an article for *Law360*.

U.S. law presumes that defendants should be released unless prosecutors can show they are a serious flight risk and no condition can reasonably assure their appearance. While wealth may be a consideration, the U.S. Court of Appeals for the Second Circuit held in *U.S. v. Boustani* that it cannot be the factor distinguishing between defendants who are released and those who are not.

As such, wealthy defendants seeking pretrial release should minimize any other reasons a court may consider them a flight risk. Buckley and Tuminelli recommend de-emphasizing ties to foreign countries; emphasizing ties to the U.S.; and providing accurate and comprehensive financial disclosure while keeping in mind how incomplete disclosures may hurt, an especially relevant fact for those with hard-to-assess assets such as digital currencies.

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