

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Criminal Action No.
v.)	09-00296-02-CR-W-FJG
)	
ERIC G. BURKITT,)	
)	
Defendant.)	

DETENTION ORDER

On September 30, 2009, I held a detention hearing. I find by a preponderance of evidence that there is no condition or combination of conditions of release that will reasonably assure the appearance of Defendant as required. In addition, I find by clear and convincing evidence that Defendant poses a danger to the community and that no single condition of release or combination of conditions of release will reasonably assure the safety of the community.

I. BACKGROUND

On September 23, 2009, an indictment was returned charging Defendant with one count of conspiracy to distribute methamphetamine, cocaine and marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 846. The detention hearing was held on September 30, 2009. Defendant appeared in person, represented by appointed counsel F.A. White. The government was represented by Assistant United States Attorney Matt Wolesky. The parties stipulated that the court consider the information in the Pretrial Services Report prepared by Western District of Missouri Pretrial Services Officer Penney Hodges as the testimony she would give, under oath, if called as witnesses. No additional evidence was offered by either party.

II. FINDINGS OF FACT

On the basis of the information contained in the report prepared Pretrial Services Officer Penney Hodges, I find that:

1. Defendant, 25, is a lifelong resident of the Kansas City area.
2. Defendant's mother is deceased. His father is disabled and resides in Harrisonville, Missouri. He has one brother who resides in Archie, Missouri. Defendant described his family as close.
3. Defendant has never been married and does not have any children.
4. Defendant has been employed as a shop hand for approximately two months. He was previously employed with the railroad, but was terminated when he was arrested in April of 2009. Defendant stated the union has filed a grievance on his behalf and hopes his employment with the railroad will be reinstated.
5. Defendant advised he has some medical problems as a result of multiple motorcycle accidents. He takes a number of pain medications and an arthritis medication. Defendant indicated he does not have a history of mental health treatment, substance abuse history, or substance abuse treatment.
6. Defendant's criminal history includes the following:

Date	Charge	Disposition
03/25/09	(1) Forcible Rape (2) Forcible Sodomy (4)-(5) Assault - 3rd Degree (6) Sexual Misconduct	Trial Setting: January 4, 2010

According to a Kansas City, Missouri Police Department report, on 11/12/08 at 3:19 a.m., the victim reported the following. On 11/12/08, between 1:00 and 2:00 a.m., she had been raped by Defendant in a car. She explained she had been upset over phone calls her ex-husband had made to her on the previous date. She contacted a male associate, who is also a friend of her ex-husband. The associate arranged a meeting between her and Defendant, noting that the associate, the defendant, and her ex-husband were all part of the same motorcycle club. She related they began riding around in the vehicle, and Defendant stated he was going to have her ex-husband stop calling. She related she was penetrated vaginally, and forced to perform oral sex on Defendant. Following the assault, Defendant drove her back to her car. She drove around for twenty minutes before deciding to report the assault. According to court records, Defendant was released on bond. He has been on electronic monitoring since his release with no failure to appear history. According to the electronic monitoring program, Defendant has been in compliance. If Defendant is released from custody, he can resume electronic monitoring with their agency.

7. Defendant has two non-moving violations and one moving violation, resulting in fines.

8. If convicted of the instant alleged offense, Defendant faces not less than ten years but up to life imprisonment, not more than a \$4,000,000 fine, not less than five years supervised release, and a \$100 special assessment fee.

III. CONCLUSION

I find by a preponderance of the evidence that no single condition of release or combination of conditions of release will reasonably assure the appearance of Defendant as required. Defendant is charged with conspiracy to distribute methamphetamine, cocaine and marijuana. Defendant faces significant penalties if convicted of the instant charge; he also faces significant penalties in his pending state case.

In addition, I find by clear and convincing evidence that no single condition or combination of conditions of release will reasonably assure the safety of the community. Defendant is charged with conspiracy to distribute methamphetamine, cocaine and marijuana. His criminal history

includes a pending state case involves assaultive behavior. Those actions are alleged to have occurred after Defendant was aware of the investigation leading to the instant charge, and at a time when Defendant was represented by counsel. Defendant is also alleged to be part of a motorcycle club.

It is, therefore

ORDERED that Defendant be committed to the custody of the Attorney General or his authorized representative for detention pending trial. It is further

ORDERED that Defendant be confined in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.

It is further

ORDERED that the Attorney General or his authorized representative ensure that Defendant is afforded reasonable opportunity for private consultation with his counsel. It is further

ORDERED that, on order of a court in the Western District of Missouri, the person in charge of the corrections facility where Defendant is confined deliver the defendant to a United States Marshal for his appearance in connection with a court proceeding.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
October 2, 2009