

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 09-00296-02-CR-W-FJG
)	
Eric Burkitt,)	
)	
Defendant.)	

**GOVERNMENT’S RESPONSE TO DEFENDANT
BURKITT’S MOTION FOR RECONSIDERATION**

Comes now, the United States, by and through its undersigned attorneys, and responds to Defendant Burkitt’s Motion For Reconsideration of Detention Order, which was issued on October 9, 2009. Count One of the government’s indictment returned on September 23, 2009 charges defendants Angell, Burkitt, Stewart, Cox, Larson, and Donkersloot, who are all members of the Galloping Goose and El Forstero motorcycle clubs, with a narcotics distribution conspiracy from January 1, 2002 to July 31, 2007, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 846. Count Two charges defendant Angell with threatening a witness in connection with the same narcotics conspiracy investigation. Because defendant Burkitt is a flight risk and a danger to the community, the government respectfully requests that this court deny defendant’s motion to reconsider.

On September 30, 2009, this Court held a detention hearing pursuant to 18 U.S.C. § 3142(f) for the purpose of determining whether any conditions of release would reasonably assure the defendant's appearance and the safety of the community if the defendant was granted bond. The defendant appeared in person and with counsel, F.A. White, and both parties stipulated to the Pretrial Services Report. After considering the evidence and the record, the Court found by a preponderance of the evidence that the defendant is a flight risk and a danger to the community, and the Court detained the defendant without bond. A written Detention Order was issued on October 2, 2009. Through a motion filed October 7, 2009, the defendant now asks this Court to reconsider its decision.

Count One carries a mandatory minimum penalty of ten years' incarceration and a maximum penalty of life imprisonment. Under 18 U.S.C. § 3142(e)(3)(A), there is a rebuttable presumption of detention if the court finds probable cause that the defendant committed an offense for which a maximum term of imprisonment of 10 years or more is prescribed under the Controlled Substances Import and Export Act. At the hearing, the court found probable cause that he committed the offense, and that the defendant did not adequately rebut the presumption of detention.

Through his new motion, the defendant raises no valid additional concerns to rebut this presumption. The Court already specifically considered that the defendant has no prior convictions, is a lifelong resident of the area, and that he is employed, which are the

primary grounds raised in the defendant's Motion. Additionally, the defendant argues that because he has not fled yet, even though he knew of the federal investigation, he has demonstrated that if issued a bond, he will appear. However, while he was aware that he was a prospective target of a federal investigation, the defendant did not know for certain if and when he would be charged federally. Further, the fact that he has been compliant under state supervision and that he has remained in the area do not provide adequate assurance that he will appear now that he is definitely facing both federal and state charges. Nor do they assure the safety of the community, which was the second basis for his detention.

The defendant is charged with a serious narcotics offense and faces significant penalties. In addition to the presumption of detention triggered by the federal narcotics offense, defendant Burkitt was also indicted in March 2009 in Jackson County for forcible rape and sodomy and those charges remain pending. He faces significant penalties on that case as well. In addition, the defendant is or was a member of a motorcycle club with an inherent culture of drugs, violence, and witness intimidation, and he has a pending state case charging him with violent behavior alleged to have occurred after he was aware of the investigation that led to the federal charge. For these reasons, defendant Burkitt is a flight risk and a danger to the community, and the government

respectfully requests this Court to deny the defendant's Motion for Reconsideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on October 20, 2009, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

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