

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

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

**ORDER DENYING DEFENDANT’S MOTION
FOR RECONSIDERATION OF DETENTION ORDER**

Before the court is Defendant’s Motion to Review Detention Status (Doc. No. 62). For the reasons outlined below, Defendant’s request is denied.

I. BACKGROUND

On September 24, 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. A detention hearing was held on September 30, 2009, after which Defendant was detained without bond. The conclusion of the detention order stated as follows:

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.

(Doc. No. 40).

On October 7, 2009, Defendant filed a motion for reconsideration of the detention order (Doc. No. 62). In support of his motion, Defendant states he had known as early as July of 2007 about the instant indictment and was also aware of the potential penalty ranges. Defendant further states that in spite of this information and the federal prosecution of another member of his motorcycle club on similar charges, he remained in the area. Defendant also advised he had not had any violations of his bond in Jackson County, Missouri. The government opposed the motion, arguing that Defendant remains a flight risk and a danger to the community (Doc. No. 75).

II. CONCLUSION

I find that Defendant has offered no new evidence regarding either the issue of his flight risk or of his danger to the community. Defendant's argument that he has remained in the area despite knowledge of the instant indictment does not alleviate my concern regarding his risk of flight based on the significant penalties he may face in both this case and his pending state case. Moreover, Defendant's compliance with his state bond thus far does not assure me he will not pose a danger to the community. Defendant is charged with conspiracy to distribute methamphetamine, cocaine and marijuana. His state charges are for forcible rape, forcible sodomy, assault and sexual misconduct; the alleged victim is the ex-wife of one of Defendant's motorcycle club brothers. I find that neither of these arguments rebut the statutory presumption against release. Accordingly, it is

ORDERED that Defendant's Motion for Reconsideration of Detention Order is denied.

/s/ Robert E. Larsen

ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
October 30, 2009