

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Criminal Action No.
) 09-00296-03-CR-W-FJG
 ROBERT E. STEWART,)
)
 Defendant.)

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

Before the court is Defendant’s Motion to Review Detention Status (Doc. No. 59). 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 has active warrants. Defendant has a lengthy criminal history, which includes failures to appear. He has a record of using other names. Lastly, Defendant has a history of substance abuse.

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. He has a lengthy criminal history, including four felony convictions and weapon charges. Defendant also has a history of substance abuse.

(Doc. No. 41).

On October 6, 2009, Defendant filed a motion for reconsideration of the detention order (Doc. No. 59). In support of his motion, Defendant states the Court overstates his criminal history. Specifically, Defendant references five matters on which charges were never filed. Defendant also states that the August 23, 2006 charge for no driver's license was disposed of by a plea agreement, he received a suspended imposition of sentence, and there is no outstanding warrant. Furthermore, Defendant states he has remained in the Kansas City the past three years while the government has returned two major indictments against El Forastero and Galloping Goose members. Lastly, Defendant states he suffers from Hodgkin's Lymphoma. The government opposed the motion, arguing that Defendant remains a flight risk and a danger to the community (Doc. No. 76).

II. CONCLUSION

I find that Defendant's arguments do not change my initial determinations on either the issue of his flight risk or danger to the community. Even if Defendant does not have an active warrant, I still find he poses a flight risk. Defendant faces significant penalties if convicted of the instant alleged offense. He has a felony conviction for criminal impersonation and has admitted to using the name "Robert Gene Synder." He also remains a danger to the community. Defendant is charged in the instant case with conspiracy to distribute methamphetamine, cocaine and marijuana. In addition to the five matters on which charges were never filed, Defendant's criminal history contains four felony convictions. He is a member of the El Forastero motorcycle club. Defendant will be able to continue receiving necessary health care while incarcerated. Moreover, Defendant's arguments do not 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