

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

UNITED STATES OF AMERICA

v.

Case No. 10-00320-17-CR-W-DGK

GILBERT LUPERCIO

AUSA: Bruce Rhoades
Defense Atty.: Nickalaus Seacord

JUDGE	Robert E. Larsen United States Magistrate Judge	DATE AND TIME	November 23, 2010 1:30 to 5:50 PM
DEPUTY CLERK	Melanie Beard	TAPE/REPORTER	FTR / M. Beard
INTERPRETER	None	PRETRIAL/PROB:	Penney Hodges

CLERK'S MINUTES

DETENTION/ARRAIGNMENT

DETENTION HEARING: Parties appear in person and with counsel ready to proceed on government's motion for pretrial detention.

- (x) Parties stipulate to factual contents of Pretrial Services Report as being the direct testimony of Pretrial Services Officer Penney Hodges.
- (x) With exception(s) The defendant notes that he is engaged to the mother of his child and that he settling his child support arrearage. Also that under the employment section of the report, the defendant notes that he is currently employed and is prepared to go work under contract painting at Ft. Riley, but made if made part of the conditions of release would obtain work painting in the local area. The defendant is also willing to go through and mental health and substance testing. The Court accepts the proffer without objection .
- (x) Government presents evidence and calls witness(es) DEA Agent Joe Geraci. Direct, cross, redirect and re-cross examinations conducted. Court's Ex. 1 admitted without objections and placed under seal by the Court. No further testimony or evidence presented.
- (x) Arguments presented.
- (x) Defendant makes a proffer.
- (x) Court takes judicial notice of the statutory presumption against release.
- () Other: _____
- () _____
- () The Government orally moves to withdraw detention motion - GRANTED by the Court.

Based upon the information presented, the Court grants government's motion to detain and finds the following:

- (x) The Court found reason to believe that no condition or combination of conditions of release would reasonably assure:
 - (x) The appearance of the defendant
 - (x) The safety of any other person or persons and the community.
Defendant ordered DETAINED without bail.
 - (x) Written Detention Order to be forthcoming.
 - (x) Defendant remanded to the custody of the U.S. Marshal.

ARRAIGNMENT

- (x) Defendant charged in Counts one and two of a two count indictment
- (x) Defendant waived reading of the indictment and penalty range.
- () The count(s) of the indictment applicable to the defendant was read to the defendant.
- () Defendant was informed of the maximum punishment for each applicable count of the indictment.
- (x) Defendant entered a plea of not guilty to each count of the indictment applicable to him.

ORDERS

- (x) Defendant ordered committed back to custody of U.S. Marshal
- () Defendant ordered released on a continuing bail bond.
- (x) Case ordered set for trial on the joint criminal jury trial docket which commences January 10, 2011.

- (x) Defense shall file any pretrial motions within ten days from this date; government responses due seven days after motion filed. In lieu of a scheduling conference, counsel are to meet within two weeks and submit Proposed Stipulations and Orders to chambers for filing. If parties will not be ready for trial by the scheduled docket, a motion for continuance for a date certain should be filed as soon as possible.

- (x) The Government is reminded that ECF calculates deadlines under civil rules and those deadlines do not apply to this case. Failure to file a response within 7 days of the filing of the motion, regardless of when ECF says a response is due, may result in the motion being granted as unopposed.