

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Criminal Action No. 10-00320-12-CR-W-DGK
)
 DESHAUN L. CERUTI,)
)
 Defendant.)

**DEFENDANT DESHAUN CERUTI'S MOTION TO REVOKE
DETENTION ORDER AND SET BOND**

COMES NOW DeShaun L. Ceruti, by and through counsel, and, pursuant to Title 18 U.S.C. §3145 (b), files this motion to revoke detention order and set bond. In support thereof, Mr. Ceruti shows:

FACTS

1. Mr. Ceruti is charged with conspiracy to distribute cocaine, crack cocaine and marijuana and conspiracy to conduct financial transactions involving proceeds of unlawful drug activity.
2. Mr. Ceruti appeared before the Court on Plaintiff's Motion to Detain (Without Bond) on January 25, 2011.
 - a. The parties stipulated to the factual contents of the Pretrial Services Report being the direct Pretrial Services Officer testimony, except that Mr. Ceruti did not remember four convictions listed in the criminal history section of the report.
 - b. By proffer, Mr. Ceruti informed the Court that his identity was stolen more than ten years ago and has been used by another party in the past.

- c. Special Agent Joe Geraci testified on behalf of Plaintiff and was cross-examined.
 - d. Plaintiff offered Exhibit One, St. Louis Metropolitan Police Report dated December 14, 2010.
 - e. Mr. Ceruti proffered that Missouri Parole Officer Rosalyn Morgan would testify that Mr. Ceruti was a model parolee and he complied as required under her supervision from April of 2008 through October of 2009.
 - f. Mr. Ceruti testified and was cross-examined.
 - g. The Court took judicial notice of the statutory presumption against release.
3. The Court found reason to believe that no condition or combination of conditions of release would reasonably assure the safety of other persons and the community.
 4. The Court ordered Mr. Ceruti detained without bail.

ARGUMENTS AND AUTHORITIES

Plaintiff generally is charged with a requirement of showing “clear and convincing evidence that no release condition or set of conditions will reasonably assure the safety of the community and by a preponderance of the evidence that no condition or set of conditions under 18 U.S.C. §3142(c) will reasonably assure the defendant’s appearance.” *United States v. Orta*, 760 F.2d 887, 891 (8th Cir. 1985) (en banc). Although there is a presumption supporting detention for crimes involving the Controlled Substances Act where the maximum punishment is ten years or longer, the presumption is rebuttable. 18 USC §3142(e). Mr. Ceruti presented evidence that supported his burden of production; Plaintiff has not met its burden of proof in this case for detention.

Pursuant to 18 USC §3142(g), Mr. Ceruti submitted evidence to the Court of his employment history, his family ties to the greater Kansas City area, his drug treatment completion, and no major criminal convictions in more than a decade. Mr. Ceruti had been supervised on parole and his parole officer thought him to be an excellent parolee. Further, Mr. Ceruti, without contradiction, told the Court the case submitted as Plaintiff's Exhibit One was declined for prosecution.

Mr. Ceruti made attempts to show his commitment to turn himself in to law enforcement in several ways: he called the Special Agent in charge of this case; he informed the Special Agent of his intent to turn himself in after he handled business regarding his son; and, he contacted an attorney to arrange his surrender. Mr. Ceruti was being proactive in his attempts to resolve this pending case. This is not the behavior of someone who is dangerous to the public.

Plaintiff failed to show the weight of the evidence against Mr. Ceruti. At best, Plaintiff presented telephone calls between persons purportedly Mr. Ceruti and Juan Marron. However, the Special Agent was unable to present evidence to the Court showing what statements were made between the parties that constituted the purchase and/or transfer of a controlled substance.

PRAYER

WHEREFORE, Mr. Ceruti prays the Court will set conditions of release and allow him to be placed on pretrial release pending the trial of this matter.

Respectfully submitted,

/s/ Kelly M. Connor-Wilson

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion was served on AUSA Bruce Rhoades and all defense attorneys of record by CM/ECF this 3rd day of February, 2011.

/s/ Kelly M. Connor-Wilson

Kelly M. Connor-Wilson