

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

UNITED STATES OF AMERICA,                    )  
  )  
  Plaintiff,                                    )  
  )  
  v.    ) Criminal Action No.  
  ) 10-00162-02-CR-W-FJG  
RICARDO NEVAREZ,                            )  
  )  
  Defendant.                                    )

**DETENTION ORDER**

On June 9, 2010, the government moved to detain defendant Ricardo Nevarez pending trial, and on June 14, 2010, I held a detention hearing. I find by clear and convincing evidence that defendant poses a danger to the community and that no single condition of release or combination of conditions of release will reasonably assure the safety of the community.

***I. BACKGROUND***

On May 26, 2010, an indictment was returned charging defendant with one count of conspiracy to distribute cocaine and crack cocaine, in violation of 21 U.S.C. § 846. Defendant appeared before me for a first appearance on June 9, 2010. Counsel for the government filed a motion for a detention hearing and a motion to continue the hearing for three days. Those motions were granted, and defendant was remanded to the custody of the United States Marshal pending the hearing.

On June 11, 2010, defense counsel Carl Cornwell filed a motion in support of release which states in part as follows:

2. . . . The defendant is 28 years of age, has no criminal convictions, is a U.S. Citizen, is married and resides with his wife Ana Nevarez at 69 S. 14th Street in Kansas City, Kansas 66102. His wife is employed with Neurological Consultants and has been with them since October of 2009. Defendant is currently unemployed. His parents Raymundo and Felcitas Nevarez live at 2000 Orville Avenue, Kansas City, Kansas 66101. They are citizens of this country and have been gainfully employed for decades. Defendant has no criminal history other than minor traffic tickets as far as counsel has been able to find out.

3. This is crime involving a controlled substance violation and therefore the Court has to look into the nature and circumstances of the offense charged. Counsel has nothing more at this point than the Indictment. The Indictment sets out that the alleged conduct was between July 1, 2009 and the date of the Indictment of May 26, 2010. The defendant was arrested on an arrest warrant without incident and taken into custody. The Court is also to consider the weight of the evidence against the defendant and at this point, counsel has no idea what the prosecution has as regards the weight of the evidence against the defendant.

4. 18 United States Code Section 3142(g)(3)(a) talks about the fact that the Court needs to consider the history characteristics of defendant. As stated, the defendant is a 28 year life long resident of the metropolitan area and is a citizen. He has tremendous family ties to the area. His family, including his mother, father, wife and brother have been in to counsel with defendant's attorney and will do whatever is necessary including signing on any bond to assure the defendant's presence. The family has committed their financial resources to help the accused. He has no past criminal history nor does he have any history related to drug or alcohol abuse. There is no question that he understands the serious nature of the charge and will appear at every required court appearance.

5. The defendant was not at the time of the current offense on probation, parole or release pending trial.

A detention hearing was held before me on June 14, 2010.

Defendant appeared in person, represented by John Duma who was present in place of Carl Cornwell. The government was represented

by Assistant United States Attorney Brent Venneman. The parties stipulated that the court consider the information in the Pretrial Services Report of Pretrial Services Officer Van Hecke as the testimony he would give, under oath, if called as a witness. I took judicial notice of the statutory presumption against release<sup>1</sup>. Detective Don Stanze testified.

## **II. FINDINGS OF FACT**

On the basis of the information contained in the report of Pretrial Services Officer Van Hecke, and the evidence presented at the hearing, I find that:

1. Defendant, 28, is a lifelong Kansas City area resident. He has lived in Kansas City, Kansas, with his parents for the past 16 years. Defendant has one sibling living in Texas and another living locally. Defendant is married but has no children. He and his wife choose to live apart but do not consider themselves to be separated. Both of defendant's parents are willing to sign a bond.

2. Defendant has a high school education. He has worked sporadically for a painting and drywall company earning \$10 per

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<sup>1</sup>18 U.S.C. § 3142(e) states in pertinent part as follows: "Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq)."

hour. Defendant previously worked in carpentry and cellular telephone sales. Defendant has no significant financial assets or liabilities.

3. Defendant is generally in good health. He began using alcohol at age 16, uses it twice a week, and last used it two days before his interview with Pretrial Services. He used marijuana once at age 18.

4. Defendant's criminal history consists of an arrest for disorderly conduct in 2005.

5. If convicted, defendant faces a statutory minimum prison sentence of ten years and a statutory maximum prison sentence of life.

6. When defendant was arrested on the instant offense, police found **two handguns** in his bedroom, a shotgun in his bedroom, a **loaded shotgun** in his dining room, and **\$44,000** in cash.

### ***III. CONCLUSIONS***

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 participating in a large cocaine conspiracy, he had four firearms in his residence at the time of his arrest (one of them loaded), and he had a significant amount of cash in his possession despite having only sporadic employment without significant earnings. In

addition, I find that defendant has failed to rebut the presumption provided for in 18 U.S.C. § 3142(e) that there is no condition or combination of conditions of release that will reasonably assure the safety of the community.

It is, therefore

ORDERED that the defendant be committed to the custody of the Attorney General or his authorized representative for detention pending trial. It is further

ORDERED that defendant be confined in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. It is further

ORDERED that the Attorney General or his authorized representative ensure that the defendant is afforded reasonable opportunity for private consultation with his counsel. It is further

ORDERED that, on order of a court in the Western District of Missouri, the person in charge of the corrections facility where defendant is confined deliver the defendant to a United States Marshal for his appearance in connection with a court proceeding.

*/s/ Robert E. Larsen*  
ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
June 14, 2010