

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Criminal Action No.
) 10-00162-11-CR-W-FJG
JUSTIN J. CAMPBELL,)
)
 Defendant.)

DETENTION ORDER

On June 9, 2010, the government moved to detain defendant Justin Campbell pending trial, and on June 14, 2010, I held a detention hearing. I find by a preponderance of the evidence that defendant poses a flight risk and that no single condition or combination of conditions of release will reasonably assure the appearance of defendant as required. In addition, 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.

A detention hearing was held before me on June 14, 2010. Defendant appeared in person, represented by John Osgood. 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 release¹. No other evidence was offered by either party.²

II. FINDINGS OF FACT

On the basis of the information contained in the report of Pretrial Services Officer Van Hecke, I find that:

1. Defendant, 30, was born in Memphis, TN; raised in Chicago, IL; lived for a number of years in Des Moines, IA; and has been a resident of Kansas City since 2005. He lives with his

¹18 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)."

²Detective Don Stanze testified at the joint detention hearing; however, none of his testimony was relevant to defendant Justin Campbell.

wife and their three children, ages 12, 4 and 2. Defendant has no contact with his biological father but daily contact with his mother, the man he considers to be his father, and his three siblings.

2. Defendant has been unemployed since he last worked as a night stocker in a grocery store fro 2006 to 2007. His only other employment is working for six months as a telemarketer and doing various jobs for a temporary agency. Defendant is currently a student at Brown Mackie College. Defendant has no significant financial assets or liabilities.

3. Defendant is generally in good health. He began using alcohol at age 15, uses it socially, and last used it two weeks before his interview with Pretrial Services. He began using marijuana at age 15, uses it two to three times a week, and last used it about six weeks ago.

4. Defendant's criminal history includes the following:

Date	Charge	Disposition
10/18/1997	Criminal trespass - vehicle	Unknown
11/05/1997	Aggravated vehicle highjacking	Nolle pros
10/05/1998	Disorderly conduct	Unknown
06/02/2001	Possession of marijuana	180 days in jail, all but 11 days suspended, 1 year informal probation

On 12/20/01, his probation was **revoked** and he was placed on an unknown duration of formal probation. He **failed to appear** for probation revocation hearing and a warrant was issued. Defendant was continued on probation. On /7/03, he admitted to violations and was placed on intensive supervision. On 6/24/03, he **failed to appear** for a probation revocation hearing and was declared an **absconder**. On 3/24/06, his probation was **revoked** and he was sentenced to 11 days in jail with credit for time served.

10/09/2001	1. Child endangerment - no injury 2. Harass public officer 3. Fail to secure child	1. 24 months in prison (all but 11 days suspended), 24 months formal probation 2. Dismissed 3. Dismissed
02/15/2002	Criminal trespass	1 day in jail
03/11/2002	Eluding	90 days in jail, SES, 1 year probation, revoked , sentenced to 11 days
05/27/2002	Disorderly conduct	1 day in jail
12/27/2002	1. Driving while barred 2. Harass public officer	1. 24 months in prison, probation revoked , sentenced to 11 days in jail 2. Unknown
01/19/2003	Driving while barred	24 months in prison, probation revoked , sentenced to 11 days in jail
06/03/2003	Possession of controlled substance	180 days in jail (all but 12 suspended), 1 year informal probation
10/23/2003	Murder 1st degree	No further action
04/25/2004	Possession of controlled substance	Released
06/21/2004	Possession of marijuana	Pay resolve
06/29/2004	Child endangerment	Fined

07/26/2004	Possession of controlled substance	No further action
07/27/2004	Possession of controlled substance	No further action
07/27/2004	Possession of drug paraphernalia	1 year probation
02/03/2005	Dis/Del/Manuf controlled substance (Felony)	5 years in prison, SES, 5 years probation; failure to appear warrant was issued during the pendency of this case
03/12/2006	Theft 5th degree	Unknown
01/07/2009	Possession of controlled substance (Felony)	7 years in prison, SES, 3 years probation; defendant's probation officer will submit a violation report requesting issuance of a warrant and revocation of his probation based on the firearm charge in this case.

In addition, defendant has an outstanding municipal warrant with a \$930 bond.

5. At the time of his arrest, defendant was in possession of a handgun which was found in his home.

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

III. CONCLUSIONS

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 facing a minimum ten-year sentence and a possible life sentence in this case, he is facing possible revocation of his probation, he has been unemployed for three years, he has only a year and a half of work history despite being 30 years of age, he has failed to appear on at least three occasions and has been designated an absconder, and he has a history of illegal drug use. 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 appearance of defendant as required.

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 has a long criminal history including two felony convictions and an arrest for murder, he has had probation revoked five times, he was on probation at the time of the instant offense, and he has a history of illegal drug use. 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