

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

|                           |   |                     |
|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, | ) |                     |
|                           | ) |                     |
| Plaintiff,                | ) |                     |
|                           | ) |                     |
| v.                        | ) | Criminal Action No. |
|                           | ) | 10-00069-REL-01     |
| NARICCO T. SCOTT,         | ) |                     |
|                           | ) |                     |
| Defendant.                | ) |                     |

**DETENTION ORDER**

On May 10, 2010, the government moved to detain Defendant pending trial. On May 13, 2010, I held a detention hearing. I find by a preponderance of the evidence that Defendant poses a risk of flight and that no single condition of release or combination of conditions of release can 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 10, 2010, a criminal complaint was filed charging Defendant with one count of possessing with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(1)(1) and (b)(1)(A). Defendant was arrested and appeared before me for a first appearance. During the first appearance proceeding, counsel for the government filed a motion for a detention hearing and a motion to continue the hearing. Those motions were

granted, and Defendant was remanded to the custody of the United States Marshal pending the hearing.

The detention hearing was held on May 13, 2010. Defendant appeared in person, represented by appointed counsel Laine Cardarella. 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 with one addition. Defense counsel made a proffer that, were Defendant to testify he would state he had been discharged from his September 5, 2002 sentence. I took judicial notice of the affidavit in support of the complaint as well as the testimony adduced during the preliminary examination. Neither party offered any additional evidence.

## ***II. FINDINGS OF FACT***

On the basis of the information contained in the Pretrial Services Report and the affidavit supporting the complaint, I find that:

1. Defendant, 28, is a lifelong area of the Kansas City area. Defendant stated he currently lives with his grandmother, great-grandmother and his oldest child; Defendant's grandmother indicated he only occasionally resides with his great-grandmother. She further stated she does not reside with them, but does have custody of Defendant's oldest child.

2. Defendant maintains no contact with his father, but regular contact with his mother, grandmother, and great-grandmother all of whom reside locally. Defendant is single with three children from three separate relationships. According to Defendant, he maintains

daily contact with his oldest and youngest but little to no contact with his middle child. Defendant does not currently pay child support and does not know if his is court-ordered or otherwise obligated to do so. Defendant's grandmother revealed he maintains contact with all of his children but she did not know anything about his child support obligations.

3. Defendant has neither graduated from high school nor obtained a GED. He reported his employment history to include working for a pallet company for most of 2007 and a fast food restaurant prior to that.

4. Defendant stated he is in good physical and mental health.

5. Defendant indicated he completed a long-term institutional drug treatment program (2005), a 60-day inpatient drug treatment program while on community supervision, as well as having participated in several outpatient drug treatment programs over the years.

6. Defendant's criminal history includes the following:

| Date  | Charge                           | Disposition                                    |
|---|----------------------------------|--|
| 05/16/99  | Possession of Marijuana          | 12/02/99 - SIS, 1 year probation               |
| 07/28/99  | Tampering -First Degree (FELONY) | 03/15/00 - 5 years DOC, SES, 3 years probation |
| <p>Defendant was released on a \$2,000 (10%) bond following his above-noted arrest which was later reduced to a personal recognizance bond. Defendant later failed to appear and was arrested but was subsequently released on his personal recognizance. On 06/17/02, Defendant's probation was revoked but he was allowed to self-surrender for service of his sentence. On 07/17/02, a warrant was issued after Defendant failed to self-surrender. On 09/17/02, Defendant was received in the Missouri Department of Corrections. On 05/01/06, Defendant was paroled and on 05/14/08 this sentence expired.</p> |                                  |  |

|   |   |  |
|---|---|--|
| 09/15/99  | (1) Distribution, Delivery, Manufacturing of Controlled Substance (FELONY)<br>(2) Trafficking in Drugs - Second Degree (FELONY) | (1)-(2) 03/15/00 - 5 years DOC, SES, 3 years probation                                   |
| <p>Defendant was unable to post a \$7,500 (10%) bond following his arrest on 02/23/00. Missouri Probation and Parole records indicate the above offense involved the controlled purchase of crack cocaine from Defendant. When Defendant was arrested, he possessed 3.5 grams of crack cocaine. While on probation, Defendant incurred the following violations: law violations (x2); marijuana use (x5); cocaine use; PCP use; failure to report (declared absconder); failure to appear for probation violation hearing; failure to pay court costs; failure to perform community service hours; failure to participate in drug treatment; associating with convicted felon; and possession of marijuana/cocaine/firearm. On 06/11/02, Defendant's probation terms were revoked but he was released on a personal recognizance bond and allowed to self-surrender for service of his sentence. On 07/17/02, a warrant was issued after Defendant failed to self-surrender. On 09/17/02, Defendant was received in the Missouri Department of Corrections. On 05/01/06, Defendant was paroled and on 02/14/07, his sentence expired.</p> |   |  |
| 10/12/99  | Failure to Appear   | Transferred  |
| 12/03/99  | Tampering   | Transferred  |
| 12/30/99  | Stealing of Motor Vehicle   | No further action  |
| 01/06/00  | Possession of Marijuana   | 12/08/06 - Pay resolve   |
| 02/22/00  | Sale of Drugs   | Released   |
| 06/16/00  | Simple Assault  | 01/12/01 - Dismissed   |
| 01/05/01  | Attempt to Assault  | 05/01/01 - Dismissed   |
| 02/09/01  | State Charges   | Transferred  |
| 01/09/02  | (1) Trafficking in Drugs - Second Degree (FELONY)<br>(2) Unlawful Use of Weapon (FELONY)<br>(3) Possession of Marijuana         | (1) 06/11/02 - 10 years DOC<br>(2) 06/11/02 - 5 years DOC<br>(3) 06/11/02 - 10 days jail |

Although Defendant was unable to post a \$75,000 (10%) bond following his above-noted arrest, he was released on his own recognizance on 06/11/02 and permitted to self-surrender for service of his sentence. On 07/17/02, a warrant was issued after Defendant failed to self-surrender. Missouri Probation and Parole records reflect the above offense occurred on 07/21/01 and involved law enforcement responding to a disturbance at a water park and separating a female and a different male who were arguing in a parking lot. In the meantime, an individual later identified as Defendant entered the vehicle and drove away. Law enforcement was able to stop the vehicle before it left the parking lot and at that time Defendant fled on foot but was quickly apprehended. Recovered from the vehicle was a firearm, 5.8 grams of crack cocaine, 4.1 grams of marijuana, and \$200 cash. On 05/01/06, Defendant was paroled and on 01/08/08 the weapon offense sentence expired. Contact with Missouri Probation and Parole revealed that on 08/22/09, a parole violation warrant was issued but that it was withdrawn after Defendant's reported arrest on 03/09/09. However, Defendant was either not arrested or he was mistakenly released from custody. Missouri Probation and Parole indicated they will request a detainer be placed on Defendant. The above sentence is currently scheduled to expire on 08/02/13.

|          |   |   |
|----------|---|---|
| 10/01/02 | State Charges   | Transferred                               |
| 06/11/02 | (1) Possession of Controlled Substance (FELONY)<br>(2) Unlawful Use of Weapon | (1) 09/05/02 - 6 years DOC<br>(2) Unknown |

Defendant was unable to post a \$100,000 bond (later reduced to \$50,000) following his arrest. Missouri Probation and Parole records show the above offense involved a car stop after suspicion the occupants were shoplifting. Defendant was searched pursuant to the stop; 3.66 grams of crack cocaine were recovered. Officers also recovered a loaded firearm from the vehicle. On 05/01/06, Defendant was paroled. He has incurred the following violations since his release: law violation (see 07/09/08 entry); associated with convicted felon; marijuana use (x2); and changing residence without permission (walked away from KCCRC & declared absconder). Contact with Missouri Probation and Parole revealed that on 08/22/09, a parole violation warrant was issued but that it was withdrawn after Defendant's reported arrest on 03/09/09. However, Defendant was either not arrested or was mistakenly released from custody. Missouri Probation and Parole indicated they will request a detainer be placed on Defendant. The above sentence is scheduled to expire on 08/02/13.

|          |                                     |                      |
|----------|-------------------------------------|----------------------|
| 05/09/07 | Resist/Interfere with Felony Arrest | No further action    |
| 06/29/07 | Trespassing                         | 08/16/07 - Dismissed |

|  |  |                   |
|--|--|-------------------|
| 06/02/08   | Possession of Controlled Substance                                     | No further action |
| 07/09/08   | Resisting Arrest by Fleeing  | See below         |
| <p>The above matter (Class D Felony) remains pending. A review of Defendant's criminal history shows that on 08/27/08, a warrant was issued (\$3,500 signature bond). Missouri Probation and Parole records show the above offense allegedly involved a high-speed chase pursuant to a routine traffic stop, Defendant attempting to flee on foot, and two baggies containing 6.3 and 2.4 grams of cocaine being found after retracing Defendant's path.</p> |  |                   |
| 08/22/08   | Distribution, Delivery, Manufacturing of Controlled Substance (FELONY) | Released          |

7. In addition to the above-noted warrant, Defendant has four active Kansas City, Missouri municipal moving violation warrants. Bond is set at \$4,000.

8. Defendant's criminal history shows he has used the alias "Kody Williams" as well as two different dates of birth and social security numbers.

9. According to the affidavit, the instant alleged offense occurred when officers were conducting traffic enforcement activity at a stop sign. They observed Defendant commit a stop sign violation and initiated a traffic stop. Defendant refused to stop and fled at a high rate of speed. The officers observed Defendant fail to stop for a second stop sign, turn off his headlights, and continue to drive away at a high rate of speed.

The dispatcher notified the officers that a 911 caller reported Defendant parking in the caller's driveway. Defendant also attempted to gain entry into the caller's house, stating he was running from police. When officers responded, Defendant fled on foot. Defendant was ultimately apprehended. A search of Defendant's vehicle revealed 126 grams

of cocaine base, a digital scale, and 9 live rounds of 9mm ammunition, 7 grams of a green leafy substance, and 24 grams of cocaine base; a loaded handgun was found on the roof of the caller's house.

10. If convicted of the instant alleged offense, Defendant faces not less than ten years but not more than life imprisonment, not more than a \$4 million fine, not less than five years supervised release, and not more than a \$100 special assessment fee.

### ***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 faces significant penalties if convicted of the instant alleged offense; he also faces penalties in state court if he is convicted and/or his probation is revoked. Defendant has a history of failing to appear, absconding from supervision, having fugitive status, and attempting to flee arrest (including the instant offense). His record indicates he has used other names, aliases or false identifies. Defendant has a history of illicit substance abuse. He lacks community ties through property ownership and employment.

In addition, I find by clear and convincing evidence that no single condition of release or combination of conditions of release will reasonably assure the safety of the community. As stated above, Defendant has a history of illicit substance abuse. His criminal history contains drugs and weapons offenses and six felony convictions. Defendant has a history of poor adjustment to bond/community supervision, and the instant offense is alleged to have occurred while he was on parole. The instant alleged offense involves Defendant driving at

a high rate of speed without his lights on in an attempt to elude police. A subsequent search revealed large quantities of drugs, distribution paraphernalia, and a loaded firearm.

It is, therefore

ORDERED that Defendant be committed to the custody of the Attorney General or his authorized representative for detention pending grand jury action and, if an indictment is returned, 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 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 Defendant to a United States Marshal for his appearance in connection with a court proceeding.

*/s/ Robert E. Larsen*

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ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
May 18, 2010