

United States District Court
DISTRICT OF KANSAS

UNITED STATES OF AMERICA
v.

ORDER OF DETENTION PENDING TRIAL

DARRELL LAWSON
Defendant

Case Number: 05-20105-01-CM-DJW

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
an offense for which the maximum sentence is life imprisonment or death.
an offense for which a maximum term of imprisonment of ten years or more is prescribed in
a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f) (1)(A)-(C), or comparable state or local offenses.
(2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
(3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an)other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

- (1) There is probable cause to believe that the defendant has committed an offense
for which a maximum term of imprisonment of ten years or more is prescribed in
under 18 U.S.C. § 924(c).
(2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

- (1) There is a serious risk that the defendant will not appear.
(2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Blank lines for additional findings or notes.

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by (clear and convincing evidence) (a preponderance of the evidence) that

(See attached pages)

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: December 2, 2005

s/ David J. Waxse
Signature of Judicial Officer

DAVID J. WAXSE, U.S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

Part II - Written Statement of Reasons for Detention

There are a series of factors I have to look at to determine whether there are conditions of release that will assure your appearance and provide for the safety of the community.

First is the nature and circumstances of the offense charged, including whether the offense is a crime of violence or an offense which has a maximum term of ten years. Neither of those apply, so that would be a positive to release.

The next factor is the weight of the evidence. There is a Grand Jury indictment, which is a negative.

The next factor is the history and characteristics of the person, which includes your physical and mental condition. There is no indication of any problems, so that would be a positive.

Family ties is somewhat questionable since you apparently have a mother in the community, but she doesn't want it to be known that you've lived there, so that would be considered a negative.

Your employment has apparently been verified by the Public Defender's office, so that is a positive.

The next factor is your financial resources. There is no indication that you have substantial resources that would make it easy for you to flee, so that is a positive.

Length of residence in the community is a positive.

Your community ties are positive.

Your past conduct, which includes history related to drug and alcohol abuse, criminal history and record concerning appearance at court proceedings, is a big problem. There are thirteen or fourteen guilty pleas or determinations in your record. Some are minor and some are felonies. It appears to me you have a real problem complying with rules, because all those indicate that the rules of law were

violated, and that is one of my biggest concerns.

The next factor is whether at the time of the current offense or arrest you were on probation or parole. It doesn't appear that you were.

The final factor is the nature and seriousness of the danger to any person of the community that would be posed by your release. I don't think there's any danger to persons. If there is danger, it's to property.

It appears to me, in addition to the problems with prior rule compliance as indicated by all these guilty determinations or pleas, I have to have confidence that the conditions we set are going to be viable. When there are conflicts between a Pretrial Services Report and the statements of the Public Defender, I can't rely simply on statements until there is verification of a defendant's position. The Pretrial Services Report indicates the problem with either you or your mother not being able to tell the truth. It also indicates the problem that either the records are screwed up or your brother is not telling the truth about prior records. With all those factors together, at this point in time I'm going to order you detained. If the Public Defender's office can give me better confidence in the living situation, because there is no question you're not going to reside with somebody that has a long criminal record, we might be able to reconsider this. Obviously it's not an issue of danger to people in the community. It's a question of whether you are going to violate the law. For the time being you will remain detained for those reasons.