

United States District Court

DISTRICT OF KANSAS

UNITED STATES OF AMERICA

v.

ORDER OF DETENTION PENDING TRIALSACHA GRAHAM*Defendant*

Case Number: 06-20154-01-JWL-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.
- _____
- _____
- _____
- _____

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: October 23, 2006

s/ David J. Waxse*Signature of Judicial Officer***DAVID J. WAXSE, U.S. MAGISTRATE JUDGE***Name and Title of Judicial Officer*

Part II - Written Statement of Reasons for Detention

There is a series of factors the law requires I look at to decide whether you should be detained or released.

The first factor is the nature and circumstances of the offense charged, including whether it is a crime of violence. The courts have construed what you are charged with as a crime of violence, so that is a negative.

The next factor is whether it is an offense for which a maximum term of imprisonment of ten years or more is prescribed; it is, so that is another negative.

The next factor is the weight of the evidence. There is a Grand Jury Indictment which is a probable cause determination, so that is another negative.

The next factor is the history and characteristics of the person, including your character, physical and mental condition. There is nothing about those that indicate release or detention.

The next factor is family ties, and your cousin's interest would be a positive.

The next factor is employment, and employment with your cousin is a positive.

The next factor is financial resources. There has been no indication that you have sufficient financial resources to help you flee, so that is a positive.

Length of residence in the community is negative because you have not been in this community very long.

Community ties would also be negative based on your short time here.

Your past conduct and history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings is the next combination of factors. You have numerous convictions, and on several occasions you have not complied with orders of the court; either orders of probation or parole that you violated, or orders to appear that you violated.

The next factor is whether at the time of the current offense or arrest you were on probation, parole, or other release. It does not appear that you were.

The final factor is the nature and seriousness of the danger to the community that would be posed by your release. It is a danger any time people are using firearms that should not be using firearms.

Considering all of those factors together, I am going to order that you remain detained. I cannot find that there are conditions that will reasonably secure your appearance or the safety of the community.