

# United States District Court

## DISTRICT OF KANSAS

UNITED STATES OF AMERICA

v.

**ORDER OF DETENTION PENDING TRIAL**KURTZ GRIFFIN*Defendant*

Case Number: 07-20168-17-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: March 19, 2008

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 are a series of factors I have to look at to determine whether there are conditions that would assure your appearance and the safety of the community.

The first factor is the nature and circumstances of the offense charged, including whether it is a crime of violence or involves a controlled substance which this clearly does, so that is a negative factor.

The next factor is the weight of the evidence. There has been a Grand Jury Indictment which is negative towards release.

The next factors are your character and history. There is nothing about your physical or mental condition that would be a problem.

The next factor is your family ties. You have a girlfriend but that is not in the legal nature a family, so that is kind of neutral.

The next factor is your employment, which is questionable since it is a little hard to verify a self-employed clothes salesman from a car.

The next factor is your financial resources. There is no current indication that you have substantial resources that would assist you in fleeing, so that is a positive.

Your length of residence is negative because it appears you have moved around a lot and it is not clear how long you have lived where.

The next factor is your community ties which would be negative.

The next factor is your past conduct which includes history relating to drug abuse, criminal history, and record concerning appearance at court proceedings. There are obviously numerous indications that you have abused drugs and have on occasion failed to comply with orders to be at various courts. In fact there are several failures to appear and several obstructions.

The next factor is whether at the time of the current offense you were on probation, parole, or other release. I do not see that you were on probation or other parole at the time of these offenses.

The final factor is the nature and seriousness of the danger to the community that would be posed by your release. If you are distributing crack cocaine as this alleges you were, that is a substantial danger.

Based on the totality of all these factors, I am going to find that there are not conditions that would satisfactorily assure your appearance and the safety of the community so you will remain detained.