

United States District Court

DISTRICT OF KANSAS

UNITED STATES OF AMERICA

v.

ORDER OF DETENTION PENDING TRIALHENRY GRIGSBY*Defendant*

Case Number: 07-20168-05-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: January 7, 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 is a set of factors I have to look at to determine whether there are conditions that will assure your appearance and the safety of the community.

The first is the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a controlled substance. Both of these are alleged here so that is a negative.

The next factor is the weight of the evidence. There has been an Indictment so that is a negative since there has been a probable cause determination.

The next factor is your history and characteristics, including your character, physical and mental condition. There is nothing about those three factors that would be a problem so those are positive.

Family ties are positive.

The next factor is employment. It does not appear to me that you have recently had much employment, so that is negative.

The next factor is financial resources. There is obviously a dispute about the nature and extent of your financial resources since you filled out an affidavit that says you do not have any, and the government is saying that you have a lot, so that is up in the air.

Length of residence in the community is somewhat short in this community, but obviously there is no indication that you have not resided either in California or here.

The next factor is community ties. There is no real content with that in terms of Kansas ties so that is a negative.

The next factor is your past conduct or history relating to drug or alcohol abuse, criminal history and record concerning appearance. There is what appears to be a felony and there are no indications of failures to appear so that is somewhat negative.

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

Finally is the nature and seriousness of the danger to any person in the community that would be posed by your release. In this situation where we are talking about substantial amounts of drugs and firearms there is obviously substantial danger if you got involved in that. The question then goes back to whether there are conditions that will take into consideration all those factors. Having looked at all these together it appears to me that there are no conditions that I can confidently feel will protect the community and assure your appearance so you will remain detained.