

United States District Court

DISTRICT OF KANSAS

UNITED STATES OF AMERICA

v.

ORDER OF DETENTION PENDING TRIALAUDARIUS JONES*Defendant*

Case Number: 08-20067-01-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.
- _____
- _____
- _____
- _____

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: June 18, 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 two things I have to look at: whether or not there are conditions that will assure your appearance; and whether or not there are conditions that will protect the community. The other part of that is I have to have confidence that you are going to follow those conditions.

Let's go over the factors found in 18 U.S.C. §3142(g).

The first factor is the nature and circumstances of the offense charged, and whether it involves a controlled substance or a firearm. Both apply in your case so that is a negative.

The next factor is the weight of the evidence. There has been a Grand Jury determination of probable cause so that is a negative.

The next factor is the person's character and physical and mental condition. There is nothing specifically there that is negative.

Your family ties appear positive.

Your employment appears negative because you don't have any at the moment.

Your financial resources are unknown so there is no indication that you have substantial assets to enable you to flee.

Length of residence in the community is positive.

Community ties are positive.

Your problems start with these next factors because they are past conduct, which includes history relating to drug or alcohol abuse. You clearly have long term drug abuse. Criminal history is substantial. Record concerning appearance at court proceedings is problematic.

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

Finally is the nature and seriousness of the danger posed to the community should you be

released. That is where it gets back to confidence. Even if I set conditions will you comply with them? You have had numerous situations where you have either been on probation or pretrial release where you simply ignored the obligations you have to comply with the requirements.

I cannot find that there are conditions that I think you are going to comply with. Therefore I think you are a danger to the community and need to be retained in detention.