

**UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 09-10097-02-JTM</b>
	)	
<b>MICHAEL SCOTT BERG,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**MEMORANDUM AND ORDER ON  
MOTION FOR RECONSIDERATION OF DETENTION ORDER**

On August 26, 2009, a detention hearing was conducted in accordance with the Bail Reform Act, 18 U.S.C. §3142(f). The Government appeared by and through Matt Treaster, Assistant United States Attorney. The defendant appeared in person and through appointed counsel, Casey Cotton.

The Government requested a detention hearing because this case involves an offense for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 801 et seq., and because this case involves the unlawful possession of a firearm in furtherance of a drug trafficking crime pursuant to 18 U.S.C. § 924(c). After hearing arguments, the court granted the Government's motion for detention. (Doc. 22).

On October 5, 2009, Defendant filed a motion to reconsider the detention order. (Doc. 45). The Court has been advised that the U.S. Probation Office and the U.S. Attorneys' Office do not oppose release subject to certain significant conditions of release. The Court finds that the conditions set out in the separate "Order Setting Conditions of Release" in this case will reasonably assure the appearance of the

Defendant and the safety of the community, and Defendant should be released on those conditions.

The release of Defendant shall be STAYED until October 12, 2009, or as soon as a bed is available at an inpatient treatment facility which is approved by the Pretrial Services Officer.

In addition, Defendant shall not be released from the inpatient treatment facility until any subsequent release plan shall be reviewed and approved by the Pretrial Services Office. If the parties are in disagreement about any subsequent release plan, the Court shall be notified so that a hearing can be set to consider such plan.

Pursuant to 18 U.S.C. § 3142(h), Defendant has been advised that:

- A. if he commits a crime under federal, state or local law while on release in this case, he may face additional incarceration in a federal penitentiary for up to ten (10) years if the crime is a felony, and up to one (1) year if the crime is a misdemeanor;
- B. if he violates any of the conditions of release, the Government may seek an order setting aside this Order of Release and seek issuance of a warrant for Defendant's arrest and seek to have him held in custody pending trial in this case;
- C. if he fails to appear in court every time his appearance is required, the Government may seek issuance of a warrant for his arrest, seek to have him held in custody pending trial in this case, seek an order forfeiting the amount of the bond in this case and seek to recover the amount of the bond

from any assets of Defendant which the Government may reach as a matter of law.

**IT IS THEREFORE ORDERED** that the defendant be released from custody pending trial subject to the conditions stated in the separate document entitled “Order Setting Conditions of Release.”

IT IS SO ORDERED.

Dated at Wichita, Kansas, this 6<sup>th</sup> day of October, 2009.

s/ DONALD W. BOSTWICK  
DONALD W. BOSTWICK  
United States Magistrate Judge