

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES of AMERICA,

Plaintiff,

v.

Case No. 09-40071-01-JAR

DENNIS DEAN NEFF,

Defendant.

ORDER GRANTING RELEASE PENDING CONCLUSION OF APPEAL

This matter comes before the Court on defendant's motion, pursuant to 18 U.S.C. § 3143(b), for an order granting him release on his personal recognizance pending the issuance of a mandate from the Tenth Circuit Court of Appeals. The government does not oppose the motion. For the reasons set out below, the Court grants the motion and directs that Mr. Neff be released from the custody of the Bureau of Prisons forthwith.

On June 5, 2012, the Tenth Circuit court released an opinion in Mr. Neff's appeal, reversing this Court's denial of his suppression motion and remanding the case with instructions to vacate Mr. Neff's conviction. Mr. Neff is currently serving a 60-month sentence, incarcerated at the United States Penitentiary in Leavenworth, Kansas. According to the Bureau of Prisons' web site, his projected release date is March 9, 2013.

Pursuant to section 3143(b), the district court shall order that Mr. Neff be detained, unless the court finds –

(A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title [18 USCS § 3142(b) or (c)]; and

(B) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in– (i) reversal . . .

The Court finds by clear and convincing evidence that Mr. Neff is not likely to flee or pose a danger to the safety of any other person or the community if released and, based on the June 5, 2012, Tenth Circuit opinion, that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal. Based on these findings, the Court orders the release of Mr. Neff pursuant to the terms of 18 U.S.C. § 3142(b). Mr. Neff is hereby released on personal recognizance subject to the condition that he not commit a Federal, State, or local crime during the period of release.

IT IS SO ORDERED.

Dated: June 11, 2012

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE