

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA)

Plaintiff)

v.) Case No. 09-CR-40071-02-JAR

RALFEAL ERON CARR)

Defendant)

_____)

**ORDER GRANTING DEFENDANT RALFEAL CARR’S UNOPPOSED
MOTION FOR RELEASE PENDING CONCLUSION OF APPEAL**

This matter comes before the court on defendant Carr’s unopposed motion, pursuant to 18 U.S.C. § 3143(b), for an order granting him release on his personal recognizance pending a judgment and issuance of a mandate from the Tenth Circuit Court of Appeals. The government does not oppose the motion. For good cause shown, and for the reasons set forth below, the Court hereby grants the motion and it is hereby

ORDERED that Ralfeal Eron Carr, (Register # 15613-031) be released from the custody of the Bureau of prisons forthwith.

On June 5, 2012, the Tenth Circuit court released an opinion and judgment in co-defendant Dennis Neff’s appeal (case # 10- 3336), reversing the district court’s

denial of his suppression motion and remanding the case with instructions to vacate Mr. Neff's conviction. On June 11, 2012, this court entered its order granting Dennis Neff's Motion for Appeal Bond, and directed that he be released from the Bureau of Prisons forthwith.

Codefendant Ralfeal Carr's motion to join in Neff's motion to suppress was granted by this court (Docket # 70), and the issue of the traffic stop was properly raised by him on appeal. The decision by the 10th Circuit Court of Appeals on June 5, 2012 in *United State v. Neff*, Case # 10-3336, therefore forecloses the government's appeal in his case as well. Ralfeal Carr is incarcerated, and currently serving a 120 month sentence at the Federal Correctional Institution, Victorville Medium I, in Adelanto, California.

Pursuant to 18 U.S.C. Section 3143(b), **Release or detention pending appeal by the defendant**- the district court shall order that a defendant 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 HEREBY FINDS by clear and convincing evidence that Mr.

Carr 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 in his companion case on appeal, that Carr's 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. Carr pursuant to the terms of 18 U.S.C. 3142(b). Mr. Carr is hereby released from custody on his own personal recognizance, subject to the condition that he not commit a Federal, State, or local crime during the period of release.

ORDERED this __12th__ day of June 2012, at Topeka, Kansas.

s/ Julie A. Robinson
The Honorable Julie A. Robinson
United States District Judge