

United States District Court
DISTRICT OF KANSAS

UNITED STATES OF AMERICA
v.
MAMOUDOU M. KABA

ORDER OF DETENTION PENDING TRIAL

Case Number: 15-20092-01-CM

Defendant

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

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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: February 1, 2016

Signature of Judicial Officer

DAVID J. WAXSE, U.S. MAGISTRATE JUDGE
Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

Part II - Written Statement of Reasons for Detention

There is a series of factors I have to look at to determine whether there are conditions of release that will reasonably assure your appearance and protect the safety of the community.

The first factor is the nature and circumstances of the offense charged, including whether the offense is a crime violence or involves a controlled substance. In your case it concerns a firearm and since both of those occur in the complaint that's filed, those are negative factors.

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

The next factor is your history and characteristics, which include your physical and mental condition, appears to be positive.

Your family ties, there are some family ties, so that would be positive.

Your employment is uncertain since you don't have any current employment, at least I have not heard that you have any employment available, so that's a negative.

The next factor is your financial resources. There are no indications of substantial resources that would enable you to flee, so that is a positive.

Your length of residence in the community is positive.

Your community ties are positive.

The next factor is your past conduct, which includes history relating to drug or alcohol abuse, criminal history, and record concerning appearances to court proceedings, your criminal

history is set out in the pretrial services report and it appears to be problematic.

The history concerning drug and alcohol abuse, you have tested positive to marijuana, so that's a negative.

Your criminal history is somewhat negative and the final factor there is your record concerning your appearances, it doesn't appear that you have failed to appear, but the problem is you failed to comply with the conditions you were released on previously.

The final factor is the nature and seriousness of the danger to the community that would be imposed by your release. In this case where the charge is that you used a firearm to commit, what is described as a violent felony, that is certainly on the high level of the danger and seriousness that would be perceived by the community if you were released.

So considering that description of the factors and the presumption that in this kind of case, you are presumed not be released until you can rebut that presumption. And I don't find that you've actually rebutted that presumptions, and therefore, you will remain detained.