

UNITED STATES DISTRICT COURT

for the
District of Massachusetts

United States of America)
v.)
TARIK MUHAMMAD) Case No. 20-MJ-02431-MBB
_____)
Defendant)

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

Upon the

- Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), or
- Motion of the Government or Court’s own motion pursuant to 18 U.S.C. § 3142(f)(2),

the Court held a detention hearing and found that detention is warranted. This order sets forth the Court’s findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

- A. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2)** (*previous violator*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:
 - (1)** the defendant is charged with one of the following crimes described in 18 U.S.C. § 3142(f)(1):
 - (a)** a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; **or**
 - (b)** an offense for which the maximum sentence is life imprisonment or death; **or**
 - (c)** an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); **or**
 - (d)** any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; **or**
 - (e)** any felony that is not otherwise a crime of violence but involves:
 - (i)** a minor victim; **(ii)** the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921);
 - (iii)** any other dangerous weapon; or **(iv)** a failure to register under 18 U.S.C. § 2250; **and**
 - (2)** the defendant has previously been convicted of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; **and**
 - (3)** the offense described in paragraph (2) above for which the defendant has been convicted was committed while the defendant was on release pending trial for a Federal, State, or local offense; **and**
 - (4)** a period of not more than five years has elapsed since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

- B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3)** (*narcotics, firearm, other offenses*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:
- (1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
 - (2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;
 - (3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
 - (4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; **or**
 - (5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

C. Conclusions Regarding Applicability of Any Presumption Established Above

- The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis. (*Part III need not be completed.*)

OR

- The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

Part III - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:

- By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
- By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

- Weight of evidence against the defendant is strong
- Subject to lengthy period of incarceration if convicted
- Prior criminal history
- Participation in criminal activity while on probation, parole, or supervision
- History of violence or use of weapons
- History of alcohol or substance abuse
- Lack of stable employment
- Lack of stable residence
- Lack of financially responsible sureties

- Lack of significant community or family ties to this district
- Significant family or other ties outside the United States
- Lack of legal status in the United States
- Subject to removal or deportation after serving any period of incarceration
- Prior failure to appear in court as ordered
- Prior attempt(s) to evade law enforcement
- Use of alias(es) or false documents
- Background information unknown or unverified
- Prior violations of probation, parole, or supervised release

OTHER REASONS OR FURTHER EXPLANATION:

The defendant is charged in a multiple-defendant criminal complaint with conspiracy to distribute and to possess with intent to distribute cocaine and cocaine base, in violation of 21 U.S.C. sec. 846. The complaint was the result of a 20-month investigation by the DEA, along with other state and local agencies, of a drug-trafficking organization led by Kenji Drayton. The defendant is charged with being a distributor for Drayton, and the evidence at this juncture appears strong. Specifically, there is evidence that on April 8, 2020, Drayton spoke with Muhammad by phone and set up a drug transaction. They were observed by law enforcement entering into a vehicle driven by K.K. (Ken Kelly), for the purpose, according to law enforcement, of conducting a drug transaction. After Drayton left the vehicle, investigators stopped Muhammad and K.K. Muhammad resisted being pat-frisked and he was put in a patrol wagon which was equipped with a camera. Muhammad was observed trying to block the camera, and trying to ingest what was later identified as a white-colored substance that appeared to be cocaine. 29 grams of the substance were recovered. Final testing on the substance has not been concluded. The police also recovered a clear, ripped, plastic bag with white residue from Muhammad's underwear. The amount of drugs recovered are sufficient to qualify as distribution weight.

Muhammad was not charged by the state for these drugs due to the COVID-19 pandemic. One month after this drug stop, however, on May 28, 2020, the defendant was found to be driving in a car with Kelly, in which a gun was found in the glove compartment. He has pending charges as a result. Kelly has been identified as a member of the St. Joseph Street gang.

The defendant, age 25, has been in custody for much of his life. He was detained in DYS facilities from age 16 (September 2010) until he was transferred to state prison in February 2013, where he remained until age 21 in January 2016. This incarceration was the result of a conviction for aggravated assault with intent to murder stemming from a stabbing on a bus. He was arrested again in 2017 for assault with a dangerous weapon (gun) and other firearm offenses. While the charges were eventually dismissed, he was incarcerated to serve the balance of a sentence imposed for violation of his youthful offender probation sentence. The defendant was released from prison on February 25, 2020. Two months later, on April 8, 2020, he was stopped with the drugs which give rise to the instant case. In May 2020 he was charged in Roxbury District Court with unlawful possession of a firearm and ammunition, resisting arrest, and possession of a loaded firearm without a permit. Those charges are still pending. The defendant was released from state court on those charges after he posted a \$5,000 bond and was put on GPS monitoring with a curfew. The defendant does not seem able to conform his behavior to the requirements of the law. Despite lengthy periods of incarceration he continues to be involved in very dangerous activities. He cannot be supervised and the danger to the community if released is too great.

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's 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 must 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 must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: 07/08/2020/s/ Judith Gail Dein

United States Magistrate Judge