

I. FACTUAL BACKGROUND

In support of this motion, the government makes the following representations and proposed findings of fact:

A. Probable Cause and the Evidence in This Case

1. There is probable cause to believe that the defendant possessed in interstate commerce nine guns, many of which were loaded, as well as additional ammunition, after having been convicted of a crime punishable by more than one year imprisonment, as charged in an indictment returned by a federal grand jury on February 23, 1999.

2. The evidence against the defendant is overwhelming. On June 24, 1998, Philadelphia Police Homicide Detectives executed a search warrant at a house owned by the defendant's mother which is located at 1410 South Allison Street in Philadelphia. The detectives asked the defendant's mother which bedroom belonged to the defendant. She walked them up to the upstairs middle bedroom and opened the door for them. She stated that the bedroom belonged to the defendant and that no one else ever stayed there. The detectives searched the defendant's bedroom and found the following items, among others:

- One Maadi semiautomatic rifle, caliber 7.62 x 29, Serial No. AC0063791, with two magazines loaded with rounds of live ammunition and two additional empty magazines;
- One Winchester Model 1300 Defender 12-gauge pump action shotgun, Serial No. L2863175, loaded with seven rounds of live ammunition;
- One Smith & Wesson .40 caliber handgun, Serial No. PAU5104;

- One Mac 11 gun, Serial No. 8900056738, with muzzle suppressor and extra magazine;
- One Desert Eagle .50 caliber handgun, Serial No. MR001906;
- One 9MM Glock Model 19 pistol, Serial No. BBE553, loaded with 14 rounds of live ammunition;
- One 9MM Ruger handgun, Serial No. 308-20744, loaded with 15 rounds of live ammunition;
- One Smith & Wesson .44 magnum handgun, Serial No. BUA6921, loaded with five rounds of live ammunition;
- One Ruger .357 magnum handgun, Serial No. 171-71559, loaded with six rounds of live ammunition;
- Several boxes and bags containing additional ammunition for the above-listed firearms;
- Several shoulder and belt holsters;
- 10 packets of crack cocaine;
- Several pieces of identification, including a Pennsylvania driver's license, bearing the name of and photograph of the defendant; and
- Photographs of the defendant.

3. In two separate Mirandized interviews conducted subsequent to the search of the defendant's bedroom, one with the the Philadelphia Police Department Homicide Division and one with the Bureau of Alcohol, Tobacco & Firearms, the defendant admitted that the guns recovered from his bedroom belonged to him.

4. As discussed in greater detail below, the defendant is a convicted felon and, thus, is prohibited from possessing a firearm.

5. All of the firearms possessed by the defendant were manufactured outside Pennsylvania and, thus, were possessed

by the defendant in interstate commerce.

6. The strength and nature of the case against the defendant and the corresponding probability that the defendant will be incarcerated for a significant period of time -- at least 15 years by statute -- establishes his danger to the community and increases the already serious risk that the defendant will not appear as required by the Court.

B. Penalties

1. The defendant faces a total maximum sentence of life imprisonment -- including a 15-year mandatory minimum prison sentence -- a three-year term of supervised release, a \$250,000 fine and a \$100 special assessment.

2. Based on the information available to the government at this time, the government conservatively estimates that, under the Sentencing Guidelines, the defendant faces a sentencing range of 210-262 months.

3. Accordingly, the defendant has a substantial incentive to flee.

C. Risk of Flight

1. The defendant presents a serious risk of flight. His criminal history reflects a pattern of brazen disregard for court-ordered supervision. It is clear from this history, which is chronologically summarized below, that no combination of bail conditions will prevent this defendant from engaging in further criminal activity or ensure his appearance in court.

- a. On June 29, 1990, the defendant, while still a juvenile, was arrested for theft and related offenses (Case No. CP #9012-2295) and certified as an adult in the Philadelphia County Court of Common Pleas. The charges were subsequently dismissed.
- b. On June 30, 1990, the defendant, while still a juvenile, was arrested for possession with the intent to distribute a controlled substance and firearms offenses (Case No. CP #9012-1978) and certified as an adult in the Philadelphia County Court of Common Pleas. He was convicted and sentenced on May 2, 1991 to 6-23 months imprisonment.
- c. On November 24, 1990, while on pretrial release for the June 30, 1990 drug and gun charges discussed above, the defendant was arrested for possession with the intent to distribute a controlled substance (Case No. CP #9012-1592) and certified as an adult in the Philadelphia County Court of Common Pleas. He was convicted and sentenced on May 2, 1991 to 9-23 months imprisonment.
- d. On November 12, 1991, while on parole for both the June 30 and November 24, 1990 charges discussed above, the defendant was arrested and charged with assault and firearms offenses (Case No. MC #9111-0999) in the Philadelphia County Court of Common Pleas. He was convicted and sentenced on November 17, 1993 to 6-12 months imprisonment.
- e. On January 30, 1992, while on parole for both the June 30 and November 24, 1990 charges discussed above, and while on pretrial release for the November 12, 1991 charges discussed above, the defendant was arrested in Johnstown, Pennsylvania and charged with aggravated assault and possession with the intent to distribute crack cocaine (Case No. 0178(A)92) in the Cambria County Court of Common Pleas. He was convicted and sentenced on September 3, 1992 to 11½-23 months imprisonment.

- f. On April 15, 1992, while on parole for both the June 30 and November 24, 1990 charges discussed above, and while on pretrial release for both the November 12, 1991 and January 30, 1992 charges discussed above, the defendant was arrested for assault and firearms offenses. The charges were later dismissed.
- g. On August 16, 1997, the defendant was arrested and charged with solicitation of prostitution (Case No. MC #9708-1675) in the Philadelphia County Court of Common Pleas. He was not convicted in that case.
- h. On September 15, 1997, the defendant was arrested and charged with attempted murder, firearms offenses and other related crimes (Case No. CP #9710-0829) in the Philadelphia County Court of Common Pleas. That case remains open.
- i. On March 2, 1998, while on pretrial release for the September 15, 1997 attempted murder charge discussed above, the defendant was arrested and charged with theft-related offenses (Case No. MC #9803-0019) in the Philadelphia County Court of Common Pleas. Those charges were subsequently dismissed.
- j. The defendant also faces aggravated assault charges in the Cambria County Court of Common Pleas arising out of his alleged assault of a female acquaintance in the crotch area with a taser gun. The trial date, originally scheduled for earlier this month, has been continued.

2. As a result of his repeated failures to adhere to the terms of court-ordered supervision, the defendant has been found guilty of multiple probation and parole violations.

3. The defendant has ignored virtually every term of court-ordered supervision imposed upon him when faced with criminal charges and penalties less serious than those he faces here. Here, there is no question that he presents an

unacceptable risk of flight.

4. The defendant has significant ties to the Cambria County area in Western Pennsylvania. He has no legitimate employment ties to the Philadelphia area.

D. Prior Criminal Record and Danger to Community

1. The defendant is a violent and dangerous repeat offender who poses an unacceptable danger to the community. His shooting of a man in Cambria County in 1992 resulted in an aggravated assault conviction. He was recently charged with assaulting a woman in the crotch with a taser gun. Attempted murder charges are pending against him for an incident which took place in Philadelphia in 1997. He has several additional arrests and convictions for assault and weapons offenses. His release will cause the community unquestionable danger.

2. The grand jury found that the defendant possessed nine deadly firearms, many of which were loaded, in June 1998 after having been convicted of at least four felonies. Whether the defendant intended to use or sell those guns, he would have caused great harm to the community had the guns not been recovered by the police.

3. The defendant's criminal record, which is replete with narcotics offenses, crimes of violence and weapons offenses illustrates his disregard for the safety of the community.

4. The defendant has continued to engage in dangerous criminal activity notwithstanding the conditions of pretrial release, probation and parole which have been imposed upon him in

many different criminal cases. There is no reason to believe he will abide by any conditions which are imposed here.

II. CONCLUSION

Nothing short of 24-hour custody and supervision can ensure the appearance of the defendant and the safety of the community. The conditions of release enumerated in the detention statute, 18 U.S.C. § 3142(c), would serve only to inform the Court, after the fact, that defendant has fled or resumed his criminal career.

For all of the foregoing reasons, the United States respectfully requests that its motion for pretrial detention be granted.

Respectfully submitted,

J. HUNTLEY PALMER, JR.
Chief, Firearms
Assistant United States Attorney

MITCHELL E. ZAMOFF
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of March 1999, a true and correct copy of the foregoing Government's Motion and Memorandum for Hearing and Defendant's Pretrial Detention, and the accompanying proposed Order, was served, by hand, on:

David M. Kozlow, Esquire
Defender Association of Philadelphia
Suite 800 -- Lafayette Building
437 Chestnut Street
Philadelphia, PA 19106-2414

MITCHELL E. ZAMOFF
Assistant United States Attorney