IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:
	:
	: CRIMINAL NO. 99-237
	:
v.	:
	:
KENNETH TUCKER	:

GOVERNMENT'S MOTION AND MEMORANDUM FOR
DEFENDANT'S PRETRIAL DETENTION

The United States of America, by its attorneys, Michael R. Stiles, United States Attorney for the Eastern District of Pennsylvania, and Floyd J. Miller, Assistant United States Attorney, moves for a detention hearing and pretrial detention of the defendant pursuant to 18 U.S.C. §3142(e). The government seeks this Order because no condition or combination of conditions will reasonably assure the defendant's appearance as required or the safety of other persons and the community.

A detention hearing is required in this matter pursuant to 18 U.S.C. §3142(f)(2)(A) which holds that a judicial officer shall hold a detention hearing upon motion of the government in a case, as here, which involves "a serious risk that the person will flee." At that hearing, the government must prove by a preponderance of the evidence that no conditions of release reasonably will assure the defendant's appearance or prove by clear and convincing evidence that no conditions of release will assure the safety of the community. United States v. Himler, 797 F.2d 156, 161 (3d Cir. 1986). Those burdens are met in this case.

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

findings of fact:

A. PROBABLE CAUSE AND THE EVIDENCE IN THE CASE

1. There is probable cause to believe that defendant has violated 18 U.S.C. §922(g)(1) as charged in the indictment on April 29, 1999.

2. The evidence in this case is strong and consists of eyewitness testimony by law enforcement officers.

3. This evidence shows that on or about February 16, 1999, defendant Kenneth Tucker, a convicted felon, knowingly possessed a Bryco Arms .22 caliber semi-automatic pistol, with an obliterated serial number, that was loaded with six (6) live rounds of ammunition.

4. The strength and nature of the case against the defendant, and the corresponding probability that upon conviction the defendant will be incarcerated for a significant period of time, increases the high risk that the defendant will not appear as required by the Court.

B. MAXIMUM PENALTIES

1. The maximum statutory penalty for violation of Title 18 U.S.C. §922(g)(1) is 10 years in jail, a $250,000.00 fine, a $100.00 special assessment and a 3 year period of supervised release.

2. Under the Federal Sentencing Guidelines, the government estimates conservatively that the defendants faces a jail term of between 77 to 96 months. Accordingly, there is a serious risk that the defendant will flee.

C. PRIOR CRIMINAL RECORD AND RELATED CONDUCT

Defendant has four prior convictions based upon records obtained from the Philadelphia Court System; the defendant's prior convictions are as follows:

1. Theft/Receiving Stolen Property. The defendant was originally sentenced on 2/20/90 to 2 years probation. He was resentenced on 10/16/91 to a minimum of 1 year and a maximum of 2 years of imprisonment because of a probation violation;

2. Burglary. The defendant was originally sentenced on 2/09/90 to 3 years of probation. He was resentenced on 7/29/91 to a minimum of 1 year and a maximum of 2 years because of a probation violation;

3. Robbery. The defendant was originally sentenced on 2/24/92 to a minimum of 1 year and a maximum of 2 years of imprisonment

4. Possession of a Controlled Substance. The defendant was originally sentenced on 9/12/94 to a minimum of 6 months and a maximum of 1 year of imprisonment.

In addition providing law enforcement officers with various addresses[1] when arrested, the defendant has also used at least two aliases,[2] two different birth dates,[3] four different social security numbers,[4] and five contempt of court charges for failures to appear.[5]

The circumstances of the offense charged against the defendant, the weight of the evidence

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[1]. The addresses that the defendant gave law enforcement authorities upon arrest include the following: (a) *5960 Broad St.*; (b) *4640 N. Hutchinson St.*; (c) *1423 W. Nedro Ave.*; (d) *3152 Camac Street*; (e) *1423 Nedro Ave.*; (f) *1423 Nedro St.*; (g) *3152 N. Camac St.*; (h) *506 W. Queen Lane*; (i) *1423 W. Nedro*; (j) *1443 W. Sparks St.;*(k) *1650 Roselyn St.*

[2]. According information obtained from NCIC, the defendant has used the names: *(*a) *Keith Williams* and (b) *Anthony Williams*.

[3]. The two birth dates that the defendant has used are the following: (a) *August 4, 1965* and (b) *August 12, 1965*.

[4]. The four social security numbers that the defendant has used, according to NCIC, are the following: (a) *171-56-0214*; (b) *171-56-0234*; (c) *171-56-6214*; and (d) *176-56-0214*.

[5]. According to the Philadelphia Police Department Criminal History Rapsheet for PID #626904, the defendant was charged with contempt of court for failures to appear in the following cases: (a) DC#94-71-003198; (b) DC#85-71-004295; (c) DC# 89-71-000115; (d) DC#89-71-002194; and DC#89-71-005841.

against him, his history and characteristics, coupled with his use of: (a) two aliases; (b) two dates of birth; (c) four social security and (d) four prior convictions cannot reasonably assure his appearance and, at the same time, reasonably assure the safety of the community.

D. TIES TO THE COMMUNITY

While the defendant arguably has some ties to the community, the legislative history of the Comprehensive Crime Control Act of 1983 indicates that Congress found that community or family ties do not, and should not, weigh heavily in the risk of flight analysis. *See* Sen. Comm. On Judiciary, *Comprehensive Crime Control Act of 1983*, S. Re. No. 98-225, 98th Cong., 1st Sess. 24, 25 (1983).

E. CONCLUSION

Nothing short of 24-hour custody and supervision can ensure the appearance of this defendant. The conditions of release enumerated in the detention statute at Section 3142(c) would serve only to inform the Court, after the fact, that the defendant has fled or resumed his lengthy criminal career.

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

Respectfully submitted,

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DATE:_____