

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : NO. 99-548-M
 :
 v. :
 :
 CARLINTON MCLAUGHLIN :

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

The United States of America, by Michael R. Stiles, United States Attorney for the Eastern District of Pennsylvania, and Richard A. Lloret, Assistant United States Attorney, moves for a detention hearing¹ and pretrial detention of the defendant, CARLINTON MCLAUGHLIN, 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 the community.²

¹ Under 18 U.S.C. §3142(f)(1)(B), a judicial officer shall hold a detention hearing upon motion of the government in a case, as here, which involves an offense for which the maximum sentence is life imprisonment. 18 U.S.C. § 924(c)(1)(A)(ii) provides for a sentence of "not less than 7 years."

² 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. Himmler, 797 F.2d 156, 161 (3d Cir. 1986).

I. STATEMENT OF FACTS

A. Probable Cause And The Evidence In This Case

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

1. There is probable cause to believe that on December 16, 1998, CARLINTON MCLAUGHLIN violated 18 U.S.C. § 924(c)(1)(A)(ii) by brandishing a pistol while in possession of cocaine base ("crack") with intent to distribute.

2. The evidence in this case is strong and consists of eyewitness testimony of police officers.

3. The evidence shows that the defendant brandished a firearm at police officers who were executing a search warrant at 5914 Walton Street in Philadelphia, Pennsylvania. The warrant was based on narcotics transactions occurring at that address on December 15, 1998.

4. The nature and strength of the evidence against the defendant demonstrates both that the defendant is a high risk not to appear and that he poses a danger to the community.

B. Penalties

1. Defendant, MCLAUGHLIN, is charged with a violation of 18 U.S.C. § 924(c)(1)(A)(ii). He faces a statutory maximum of life imprisonment, and a minimum mandatory sentence of 7 years incarceration, together with a maximum fine of \$250,000, 5 years supervised release and a \$100 special assessment.

2. MCLAUGHLIN faces a mandatory minimum of 7 years incarceration, under 18 U.S.C. § 924(c)(1)(A)(ii). Accordingly,

there is a significant incentive for the defendant to flee to avoid prosecution and incarceration.

C. Prior Criminal Record/Attendance At Court Proceedings

The defendant has no history of prior convictions.

D. Ties To The Community

1. There is no indication that MCLAUGHLIN is employed. His family ties are not strong. His ties, such as they are, have apparently exerted no compelling influence on him. 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. Rep. No. 98-225, 98th Cong., 1st Sess. 24, 25 (1983).

2. Certainly, any ties to the community in this instance have not served to prevent the defendant from endangering the community by dealing crack cocaine and brandishing a firearm at police in connection with his crack trade. Where a defendant has conducted himself in so obvious and dangerous a fashion, the Court should be very reluctant to let the defendant loose on the community. The risk to the community is apparent, and defendant's ties to the community are irrelevant to this prong of the analysis under 18 U.S.C. §3142.

E. Rebuttable Presumption

There is a rebuttable presumption in favor of detention in this case, based on the charges under 18 U.S.C. 924(c). 18

U.S.C. § 3142(e).

II. ARGUMENT

There is probable cause to believe the defendant brandished a firearm while dealing crack cocaine. The case against the defendant is strong. Defendant's ties to the community are not consequential. The safety of the community is clearly jeopardized by those who possess a firearm and deal crack. There is a high risk that defendant will continue to conduct himself in this fashion despite the existence of a court order commanding him to do otherwise. The defendant faces 7 years of incarceration in a federal penitentiary, with a correspondingly high incentive to flee, if placed on bond or home detention with electronic monitoring.

Only 24 hour custody and supervision can ensure the appearance of this defendant and the safety of the community. The conditions of release enumerated in the detention statute, 18 U.S.C. §3142(c), are unlikely to ensure that the defendant will not flee or resume his criminal activity. The defendant should be detained without bond through the course of this case.

III. CONCLUSION

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

Respectfully submitted,

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United States Attorney

J. HUNTLEY PALMER
Assistant United States Attorney
Chief, Guns & Arson

RICHARD A. LLORET
Assistant United States Attorney

Date: July 7, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing to be served by first class mail, postage prepaid, and by fax, upon the following:

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Dated: July 7, 1999