

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 committed the following crimes: (a) possession with the intent to distribute marijuana, in violation of 21 U.S.C. § 841(a)(1); and (b) possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1), as charged in an indictment returned by a federal grand jury on March 2, 1999.

2. The evidence against the defendant is strong. On December 15, 1998, the defendant signaled two undercover police officers (the "UCs") to pull their unmarked vehicle over in the 6000 block of Reinhard Street in Philadelphia. The UCs did so. The defendant then approached the vehicle, pulled a plastic bag containing what appeared to be marijuana packets from his pocket and asked the UC in the passenger seat "how many" he wanted. Before the UC could answer, the defendant saw the UC in the driver's seat, Officer Richard Riddick, who the defendant recognized. The defendant stated, "Fuck, it's Riddick" and ran away from the UCs' vehicle. The UC in the passenger seat of the vehicle and a backup officer chased the defendant, caught him and arrested him. During a search incident to the defendant's arrest, the officers recovered five clear plastic packets containing marijuana and a loaded 9MM gun from his waistband.

3. As discussed in greater detail below, the

defendant is a convicted felon and, thus, is prohibited from possessing a firearm.

4. The firearm possessed by the defendant -- a Jennings Firearms Bryco 59 9MM handgun bearing serial number 1049110 -- was manufactured outside Pennsylvania and, thus, was possessed by the defendant in interstate commerce.

5. 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. With respect to the crimes charged in the indictment, the defendant faces a total maximum sentence of life plus 10 years imprisonment -- including a 15-year mandatory minimum prison sentence -- a lifetime term of supervised release, a \$750,000 fine and a \$200 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 262-327 months.

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

C. Rebuttable Presumption

Because there is probable cause to believe that the defendant committed an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act, there is a rebuttable presumption that no condition of release, or combination of conditions, will reasonably assure the appearance of the defendant as required and the safety of the community. See 18 U.S.C. § 3142(e). The defendant has failed to rebut this presumption.

D. 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 October 24, 1997, the defendant was arrested (Case No. CP #9802-0839) for possession with the intent to distribute crack cocaine.
- b. On December 5, 1997, while on pretrial release for the October 24, 1997 drug charges, the defendant was arrested again (Case No. CP #9801-0537) for possession with the intent to distribute crack cocaine.
- c. On January 10, 1998, while on pretrial release for the October 24 and December 5, 1997 drug charges, the defendant was arrested (Case No. CP #9803-0590) for aggravated assault.
- d. On June 1, 1998, the defendant was convicted of aggravated assault and sentenced to three

years probation.

- e. On June 9, 1998, the defendant was convicted of both the October 24 and December 5, 1997 drug charges and sentenced to 1-2 years imprisonment.
- f. The defendant served only a portion of the 1-2 year jail sentence imposed upon him on June 9, 1998. He was released sometime prior to December 15, 1998 and placed on probation.
- g. On December 15, 1998, while on probation in both drug cases and the aggravated assault case, the defendant was arrested on the instant charges.
- h. On December 29, 1998, just two weeks after he was arrested on the instant charges, and while he was on probation in both drug cases and the aggravated assault case and while he was on pretrial release for the instant charges, the defendant was arrested for possession with the intent to distribute crack cocaine. That case is still pending against the defendant in state court.

2. As a result of his repeated failures to adhere to the terms of court-ordered supervision, the defendant is presently serving a state prison term for violating his probation.

3. The defendant has failed to appear for state court on at least one occasion when faced with criminal charges and penalties which are far less serious than those he faces here. Here, there is no question that he presents an unacceptable risk of flight.

4. The defendant tried to flee when he realized that he had offered to sell drugs to undercover police officers on December 15, 1998. His attempt to flee from the officers that

night further highlights the risk of flight he presents in this case.

5. Moreover, the defendant has no employment ties to this district. According to the state pretrial services office, in December 1998, the defendant reported no verifiable employment and claimed only to perform "odd jobs" which earned him \$200 per month.

E. Prior Criminal Record and Danger to Community

1. The defendant poses a serious danger to the community. Not only did he possess a dangerous weapon -- a loaded 9MM handgun -- after having been convicted of three felonies, but he was carrying the firearm while dealing drugs. The dangerous combination of drugs and guns poses an unacceptable threat to the community.

2. As set forth above, in a little over a year, the defendant has amassed at least five arrests (four for drug dealing, one for aggravated assault), three convictions, two open cases, one failure to appear and three violations of probation. His disregard for the safety of the community is plain.

3. The defendant has been in state custody since December 29, 1998. As the state courts have recognized, detention is the only way to protect the community from this defendant.

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

least four different criminal cases. Just two weeks after being released by a state court for the instant offense, the defendant was arrested for possession with the intent to distribute crack cocaine. The community will be endangered if he is released.

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,

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th 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 counsel for defendant Morris Beatty.

MITCHELL E. ZAMOFF
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