

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Criminal Action No.
v.)	09-00296-03-CR-W-FJG
)	
ROBERT E. STEWART,)	
)	
Defendant.)	

DETENTION ORDER

On September 30, 2009, I held a detention hearing. I find by a preponderance of evidence that there is no condition or combination of conditions of release that will reasonably assure the appearance of Defendant as required. In addition, I find by clear and convincing evidence that Defendant poses a danger to the community and that no single condition of release or combination of conditions of release will reasonably assure the safety of the community.

I. BACKGROUND

On September 23, 2009, an indictment was returned charging Defendant with one count of conspiracy to distribute methamphetamine, cocaine and marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 846. The detention hearing was held on September 30, 2009. Defendant appeared in person, represented by appointed counsel John Osgood. The government was represented by Assistant United States Attorney Matt Wolesky. The parties stipulated that the court consider the information in the Pretrial Services Report prepared by Western District of Missouri Pretrial Services Officer Penney Hodges as the testimony she would give, under oath, if called as witnesses. Defense counsel made a proffer that, were Defendant to testify, he would stated he does not remember using the aliases “Robert Gene Summers” or “John Paul Summers.” I accepted

Defendant's proffer without objection. No additional evidence was offered by either party.

II. FINDINGS OF FACT

On the basis of the information contained in the report prepared Pretrial Services Officer Penney Hodges, I find that:

1. Defendant, 51, was born in Aurora, Colorado, where he lived most of his life. He lived in Minnesota from 2002-2006, before moving to Kansas City, Missouri.
2. Defendant's parents are deceased. He maintains regular contact with his brother and two sisters who reside in Minnesota and Colorado.
3. Defendant has been married twice and divorced once. He has a 25-year-old son who lives in Denver, Colorado, and a 31-year-old son who resides locally. Defendant maintains regular contact with his children.
4. Defendant has been employed in construction most of his life. He has been employed by his current employer as a carpenter since May of 2008.
5. Defendant stated he was in poor health, specifying his is a recovering cancer patient. He also suffers from respiratory/lung problems. Defendant advised he takes pain medication as well as an inhaler.
6. Defendant began using marijuana daily at age 14, and last used the drug one day ago. He related he smokes marijuana to help with his pain, but has never engaged in any other illicit substance abuse. Defendant indicated he has never participated in substance abuse treatment and has not had mental health problems.
7. Defendant's criminal history includes the following:

Date	Charge	Disposition
01/15/76	Theft (FELONY)	04/23/76 - 3 years probation; completed 04/22/79
06/07/81	Burglary (FELONY)	09/29/81 - 60 days workhouse, stayed 3 years
08/08/84	(1) Fugitive from other jurisdiction (2) Traffic Offense (2) Fugitive from other jurisdiction	No case filings found
10/07/84	Receiving Stolen Property	No case filings found
01/04/85	(1) Motor Vehicle Theft (2) Criminal Attempt (FELONY)	(1) 02/19/85 - Dismissed (2) 02/19/85 - 4 year community corrections; 1 year parole; 3 days credit for time served; 02/25/88 - Resentenced to 4 years Department of Corrections
01/07/87	Carry Concealed Weapon	Unknown
04/27/89	(1) Forgery - 2nd Degree (2) Criminal Impersonation (FELONY)	(1) 10/12/89 - Dismissed (2) 10/30/89 - 1 year Department of Corrections; 1 year parole, 98 days credit for time served
09/01/89	(1) Fugitive Other Jurisdiction - Probation Violation (2) Fugitive Other Jurisdiction (3) Possession of Marijuana (4) Obstruct Police	No case filings found
10/03/89	Aggravated Vehicle Theft	Unknown
10/27/93	(1) Registration Violation (2) Operate Vehicle Without Insurance	No disposition found
10/03/97	Contempt of Court - Child Support	No case filings found
06/19/98	(1) Violation of County Planning Code - outdoor park inoperable (2) Violation of County Planning Code - occupying camper in conjunction with residence	(1) 09/18/98 - Dismissed (2) 09/18/98 - Fine

09/05/98	(1) Failure to present proof of insurance (2) Driving when license under restraint (3) Possess/display revoked/altered registration plate	12/03/08 - Warrant issued for failure to appear; 07/12/99, warrant cancelled, case dismissed
03/19/01	(1) Failure to Display Proof of Insurance (2) Driving Under Suspension	(1) 06/28/01 - Fine (2) 06/28/01 - Dismissed
02/23/02	County Ordinance Violation - Dog Control (Unlicensed Dog)	05/01/02 - Warrant issued for failure to appear; 06/01/06 - warrant cancelled. 06/09/06 - dismissed.
05/03/05	(1) No Driver's License (2) Proof of Insurance	(1) 06/06/05 - Fined (2) 06/06/05 - Dismissed
01/10/06	(1) Traffic Violation - uninsured vehicle owner violation (2) Driving after cancellation (3) Possession of Marijuana	05/08/06 - Warrant issued 06/07/09 - Warrant cleared 06/24/09 - Adjudication unknown
08/23/06	No Driver's License	04/11/07 - Warrant issued
11/09/07	Manufacture Controlled Substance	Unknown

8. According to Defendant's criminal history printout, he has used the following names: Robert Gene Snyder; Robert Gene Summers; and John Paul Summers.

9. If convicted of the instant alleged offense, Defendant faces not less than ten years but up to life imprisonment, not more than a \$4,000,000 fine, not less than five years supervised release, and a \$100 special assessment fee.

III. CONCLUSION

I find by a preponderance of the evidence that no single condition of release or combination of conditions of release will reasonably assure the appearance of Defendant as required. Defendant is charged with conspiracy to distribute methamphetamine, cocaine and marijuana. Defendant faces

significant penalties if convicted of the instant charge. He also has active warrants. Defendant has a lengthy criminal history, which includes failures to appear. He has a record of using other names. Lastly, Defendant has a history of substance abuse.

In addition, I find by clear and convincing evidence that no single condition or combination of conditions of release will reasonably assure the safety of the community. Defendant is charged with conspiracy to distribute methamphetamine, cocaine and marijuana. He has a lengthy criminal history, including four felony convictions and weapon charges. Defendant also has a history of substance abuse.

It is, therefore

ORDERED that Defendant be committed to the custody of the Attorney General or his authorized representative for detention pending trial. It is further

ORDERED that Defendant be confined in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.

It is further

ORDERED that the Attorney General or his authorized representative ensure that Defendant is afforded reasonable opportunity for private consultation with his counsel. It is further

ORDERED that, on order of a court in the Western District of Missouri, the person in charge of the corrections facility where Defendant is confined deliver the defendant to a United States Marshal for his appearance in connection with a court proceeding.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
October 2, 2009