

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 11-00025-02-CR-W-SOW
)
 PRINCE EARL CLARENCE GILBERT, JR.,)
)
 Defendant.)

**MOTION OF THE UNITED STATES FOR A
PRETRIAL DETENTION HEARING PURSUANT
TO TITLE 18, UNITED STATES CODE, SECTION 3142(f)**

Comes now the United States of America, by Beth Phillips, United States Attorney, and the undersigned Assistant United States Attorney, both for the Western District of Missouri, and hereby moves the Court to detain defendant without bail pending trial of this matter and to hold a hearing pursuant to Title 18, United States Code, Section 3142(f) for the purpose of demonstrating that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required by the Court and the safety of other persons and the community.

SUPPORTING SUGGESTIONS

I. Subsection 3142(f)(1), Title 18, United States Code, provides that a hearing must be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant's appearance and the safety of any other person in the community if the attorney for the government moves for such a hearing and if the case is in any one of the following categories:

A. The case is a narcotics case under Title 21, United States Code, Section 801 et seq. for which imprisonment for ten years or more is prescribed;

B. Any felony, even a nonviolent felony not involving drugs, if the person already has two or more convictions for a crime of violence, a crime punishable by life imprisonment, or a ten year drug felony, and;

C. Any felony that involves the possession or use of a firearm.

II. The statute recognizes two additional situations which allow for a detention hearing and which can be raised either by the attorney for the government or by a judicial officer. These conditions are:

A. When there is a serious risk that the defendant will flee; or

B. When there is a serious risk that the person will "obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror."

III. One or more grounds for holding a pretrial detention hearing as set forth by the statute exists in this cause.

IV. 18 U.S.C. § 3142(e)(2) states that in a case that fits one or more of the above conditions, a rebuttable presumption of detention arises that no condition or combination of conditions exist that will reasonably assure the appearance of the person as required or the safety of the community if the Judicial Officer finds probable cause that the defendant committed;

A. A controlled substance offense under 21 U.S.C. § 801 et seq. that carries a maximum term of imprisonment of more than 10 years, or;

B. An offense under 18 U.S.C. § 924(c).

V. The defendant is charged with several more than ten year maximum controlled substance offenses. The Federal Grand Jury returned a true bill on those charges and the Federal Grand Jury makes their true bill determinations by the same probable cause standard as the Judicial Officer. While not required, the Judicial Officer certainly has the discretion to adopt that probable cause finding by the Federal Grand Jury or at the minimum at least recognize that determination.

VI. To assist the Judicial Officer in a probable cause finding, additional findings that there is “a serious risk that the defendant will flee,” or “a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror,” the following factual assertions are presented:

A. The Kansas City, Missouri, Police Department (KCMOPD) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) have conducted a long term investigation into the activities of multiple individuals that are continually identified as suspect parties in various shootings, drug trafficking and possession reports, and illegal firearm possession reports in the geographic area in Kansas City, Missouri roughly bounded by 27th Street to Emmanuel Cleaver Blvd and Jackson Avenue to The Paseo. These individuals identify themselves as part of the Tre-Wall Gang and also as members of the Click Clack Gang, which is a smaller subset of those identifying with the Tre-Wall Gang. Law enforcement investigation determined the Tre-Wall criminal street gang got its start at Central High School which is on 33rd Street, the genesis of its name. The 3's form the “Tre” and the “Wall” is a reference to a virtual wall around their territory or the gang being an impenetrable wall. The origin of the Click Clack gang isn't as

clear, but the name comes from the sound of cocking a gun or “racking the slide” (putting a round into the chamber) of a semi-automatic handgun. This is corroborated by the number of semi-automatic handguns recovered from the Click Clack Gang and the number of photographs and video evidence of the members with firearms. It should be noted that in Kansas City, unlike in most other urban environments, it is not unusual for one person to claim membership or be accepted as a member in multiple criminal street gangs. That was seen in this investigation through photographs and other evidence.

This investigation has not only concentrated on recent events of these individuals, but has also mined past arrests and reports for valuable evidence and facts that were used to present a comprehensive picture of these individuals’ activities for an extended period of time as reflected in the dates charged in the indictment. During the investigation leading up to the indictment, KCMOPD and ATF recovered more than 20 firearms, over 40 grams of cocaine base (“crack”), more than 100 grams of powder cocaine, marijuana, Ecstasy pills and nearly \$2500.00 in U.S. Currency. Three of the recovered firearms were identified as used in shootings with injuries, one an as yet unsolved homicide. Several of the firearms recovered had been stolen, one from as far away as Arizona. One of the recovered firearms had been illegally altered to a sawed-off shotgun. While the facts set out herein deal mainly with each individual defendant, this case is about these defendants acting in concert with each other to promote the felonious goals of the Click Clack Criminal Street Gang over a period of years.

B. Gilbert has multiple violent and drug arrests and convictions. While the Government defers to the Pre-trial report for specific details, it is of some note that Gilbert’s arrest record covers violence, firearms, tampering, and drugs.

C. On 03/10/2010, KCMOPD stopped a vehicle at E. 22nd and Holmes Street that had been reported stolen and taken in conjunction with a robbery. Officers arrested Gilbert who was the driver and sole occupant of the vehicle. No charges were filed due to the victim's refusal to prosecute.

D. On 02/08/2010, KCMOPD officers were sent to 5530 Cypress Avenue regarding a person armed with an assault rifle. Upon arrival, Gilbert was arrested and a loaded Hi-Point 9mm rifle was recovered from the residence.

E. On 07/07/2010, KCMOPD officers stopped Gilbert at the intersection of E. 39th Street and McGee Street for a traffic violation. Gilbert was placed under arrest for Driving While Suspended and multiple outstanding municipal warrants. A search of Gilbert's vehicle incident to tow revealed approximately 0.1 grams of Cocaine Base hidden in the center console area of the vehicle. Gilbert also possessed \$401 dollars of U.S. Currency in denominations of twenty dollars or less. During Gilbert's custodial interview he denied possession of the Cocaine Base but admitted to smoking Marijuana.

F. During this investigation, KCMOPD officer's conducted approximately 10 controlled drug buys that involved Gilbert in one manner or the other and the sale of cocaine base ("crack"). The last of these buys was the 27th of January of 2011.

G. On 08/16/2010 KCMOPD executed a search warrant at 3712 Wabash Avenue where a video camera was recovered. The video camera recovered contained multiple videos of various individuals, including the defendant herein, depicting gang affiliation, controlled substance use, sale and possession, firearm possession, and identification of several individuals working in cooperation for the distribution of controlled substances.

H. Pursuant to Title 18 USC 521, Gilbert is subject to a statutory enhancement based upon his participation in the Click Clack Criminal Street Gang.

I. Defendant Gilbert was located for arrest on this warrant by KCMOPD contacting him to set up a controlled drug transaction and when he arrived to complete that transaction, he was taken into custody.

Wherefore, based on the foregoing law and facts, the Government requests this Court detain defendant without bail pending trial of this matter due to the rebuttable presumption for detention, a serious risk that the defendant will flee, and a serious risk that the defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

Respectfully,

Beth Phillips
United States Attorney

By */s/ Bruce Rhoades*

Bruce Rhoades #88156 (AR)
Assistant United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was electronically filed with ECF and hand-delivered to the United States Marshal with instructions to serve on defendant when taken into custody.

/s/ Bruce Rhoades

Bruce Rhoades
Assistant United States Attorney