UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v. **CR NO. 09-236 (JR/JMF)**

DAVID A. DUVALL et al.,

Defendants.

DETENTION MEMORANDUM

This matter comes before me upon the application of the United States that the defendants be detained pending trial. After a hearing, the government's motion was granted, and this memorandum is submitted to comply with the statutory obligation that "the judicial officer shall—include written findings of fact and a written statement of the reasons for the detention." 18 U.S.C. § 3142(i)(1).

FINDINGS OF FACT

1. David Antonio Duvall, Sean Vincent Allen and Govan Blanton were indicated upon a charge of conspiracy to Distribute and Possess with Intent to Distribute 5 Kilograms or More of Cocaine and 50 Grams or More of Cocaine Base.
2. The government used wire communication surveillance, confidential informants and controlled buys to investigate the conspiracy.
3. On or around August 2007, the government arranged a controlled buy with co-defendants to the conspiracy and 190 grams of powder cocaine was purchased.
4. On or around March 12, 2009, Mr. Duvall made arrangements with co-defendant Daryl D. Traynham in North Carolina to place an order for narcotics.
5. On or around March 14, 2009, wire communications monitoring calls between co-defendants indicated that they were still waiting for the "joint"or narcotics.
6. On or around March17, 2009, Mr. Duvall called Mr. Traynham to complain about the quality of the cocaine he purchased and received from Mr. Traynham.

According to Mr. Duvall, the cocaine "just won't hold." The cocaine would not cook into crack cocaine. On or around the same day, Mr. Duvall and Mr. Blanton also had a conversation regarding the low-quality cocaine.

7. In regards to the low-quality narcotics, Mr. Traynham asked Mr. Duvall if he would like to bring it back. Mr. Duvall responded that he had no other choice; the cocaine would not "hold" or cook into crack cocaine.

8. After his conversation with Mr. Traynham, Mr. Duvall made calls to try to locate all of the low-quality narcotics that had already been distributed so that he could make the return. In reference to co-defendant Omar E. Bowman, Mr. Duvall requested that the "boy get that back to him," referring to the return of narcotics already distributed.

9. On or around March 18, 2009, Mr. Duvall and Mr. Traynham discussed the exchange of the low-quality narcotics. Mr. Duvall wanted to return 3 to 4 "brown joints" in the "same way" that he had received them. That is, Mr. Duvall would return the packaged cocaine in the same brown packaging in which he received them.

10. Mr. Traynham and Mr. Duvall discussed whether Mr. Duvall wanted to exchange the narcotics for other better-quality cocaine or to exchange the narcotics for the price Mr. Duvall had paid for them. Mr. Duvall wanted to exchange for more narcotics.

11. On or around March 28, 2009, Mr. Duval and Mr. Traynham arranged to meet half-way between Washington DC and Charlottesville, NC to make the exchange.

12. On March 29, 2009, government surveillance saw Mr. Duvall and Mr. Traynham meet at a Shell gas station at an exit on Southbound Interstate 85.

13. Upon leaving the Shell station, Durham Police stopped Mr. Traynham in a routine traffic stop and discovered three sealed bricks of 750 grams of cocaine; each brick

was sealed in brown paper.

14. Later on March 29, 2009, Mr. Duvall called co-defendant Mr. Allen and instructed him to call Mr. Traynham to check to make sure that Mr. Traynham "[got] in good" and was safe. Mr. Duvall also requested that Mr. Allen, who was in Atlanta at the time, travel to North Carolina to retrieve either the money or the cocaine for which the exchange with Mr. Traynham had been made.

15. Twenty minutes after Mr. Duvall made this request of Mr. Allen, Mr. Allen returned the call and said that he had spoken with Mr. Traynham's wife, who told him that Mr. Traynham's car had been impounded for trafficking.

16. Mr. Allen made another call to Mr. Traynham's wife and told her to make sure that everything in the house was "clean" and also to tell her that there was no point in Mr. Allen making a visit to the house.

17. The government executed search warrants at the homes of defendants on September 23, 2009. Agents found 11 firearms in Mr. Blanton's home, including rifles, pistols and a military assault weapons, and 1800 rounds of ammunition. Also found at Mr. Blanton's residence were 70 grams of crack cocaine, a scale, small baggies, and US$ 29,000 in cash. At Mr. Allen's residence, the search produced US$1,000 in cash and a search of his person's located a small rock of cocaine in his pocket. In Mr. Duvall's residence, a search uncovered over US$500 in cash.

REASONS FOR DETENTION

An examination of the factors required to be considered by 18 U.S.C. section 3142(g) compels the conclusion that there is clear and convincing evidence that defendants' release on any condition or combination of conditions will not reasonably assure the safety of the community and their detention is, therefore, appropriate.

The Statutory Standard

Defendants who are charged with an offense for which a term of imprisonment of 10 years is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801 *et seq*.), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951 *et seq.*), or the Maritime Drug Law Enforcement Act (46 U.S.C. §§ 1901 *et seq.*) are eligible for pretrial detention. 18 U.S.C. § 3142(f)(1)(C). If 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 those three statutes, it is presumed that there is no condition or combination of conditions which will reasonably assure the appearance of the defendant and the safety of the community. 18 U.S.C. § 3142(e). In determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, the judicial officer is to consider:

1. The nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;
2. The weight of the evidence;
3. The history and characteristics of the person, including
    a. His character, physical and mental condition, family ties, employment, financial resources, length of residence in the community and community ties;
    b. Past conduct, history relating to drug or alcohol abuse;
    c. Criminal history;

       Record concerning appearance at court proceedings;
    d. Whether, at the time of the current offense or arrest, the person was on probation, parole, or on other release pending trial, sentencing, appeal or completion of sentence for an offense under Federal, State or local law;
4. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

18 U.S.C. § 3142.

An examination of these factors compels the conclusion that there is clear and convincing evidence that defendants' release on any condition or combination of conditions will not reasonably assure the safety of the community and their detention is, therefore, appropriate.

The nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug. In this case, defendants are charged with an offense that involves a very large quantity of narcotic drugs.

Defendant's character, physical and mental condition, family ties, employment, financial resources, and length of residence in the community. All three defendants have strong ties to the community. Mr. Duvall and Mr. Blaton were both born in Washington DC and has lived here their entire lives. Mr. Duvall currently is self-employed in the cleaning industry. Mr. Blanton has no visible means of support. Mr. Allen is a trained elevator technician, a job requiring an extensive apprenticeship. He is currently unemployed but receives unemployment assistance based on the strength of his previous work record.

The weight of the evidence. The government proffered an alleged controlled buy of 190 grams of powder cocaine in August 2007. Further, there is substantial evidence gathered via wire communication surveillance which implicate all three defendants in the conspiracy. Most notably, there is surveillance of Mr. Duvall at the Shell gas station meeting with Mr. Traynham prior to Mr. Traynham's traffic stop, when three bricks of cocaine were discovered in the car. Further, there are recorded phone conversations with all three defendants surrounding the events leading up to the exchange at the Shell gas station and after the arrest of Mr. Taynham. While there appears to be less evidence against Mr. Blanton as to the conspiracy, there is certainly a strong case as to his possession of the drugs and the firearms. If credited, that evidence would tie him further into the conspiracy.

History relating to drug or alcohol abuse. There is no information available regarding this factor.

Record concerning appearance at court proceedings and prior criminal record.

Defendant Mr. Duvall has at least one felony conviction for possession of cocaine and one felony conviction for possession with intent to distribute cocaine. Mr. Allen has at least two felony convictions for the possession or distribution of cocaine. Mr. Blanton has one prior conviction related to the possession of controlled substances paraphernalia.

Whether on probation or parole at the time of the present offense. There is no indication that any of the defendants were on probation or parole at the time of the offense.

CONCLUSION

A weighing of all the pertinent facts compels the conclusion that the defendants should be detained pending trial. Defendants are charged with conspiracy to distribute a very large quantity of cocaine and crack cocaine onto the streets of Washington DC. Further, all three defendants have past narcotic-related convictions. Mr. Duvall and Mr. Allen both have felony convictions for the possession or distribution of cocaine. Mr. Blanton, though lacking the same dismal criminal record as his co-defendants, presents a serious concern for the safety of the community. A search of Mr. Blanton's residence uncovered eleven firearms, including a military-type assault weapon, and 1800 rounds of ammunition. Because defendants proffered little to rebut the presumption of their dangerousness created by the Bail Reform Act, I find by clear and convincing evidence that there are no conditions or combination of conditions I could set which would reasonably assure the safety of the community. I will, therefore, order the defendants detained without bond pending trial.

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John M. Facciola
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JOHN M. FACCIOLA
UNITED STATE MAGISTRATE JUDGE