

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIC SCHUSTER,

Defendant.

ORDER OF DETENTION
PENDING TRIAL

11-cr-45-bbc

On April 28 and May 4, 2011 this court held a hearing on the government's motion pursuant to 18 U.S.C. §3142(f) to detain defendant Eric Schuster in this child pornography case. Because the grand jury had not yet returned its indictment adding a charge under 18 U.S.C. § 2251(a) to the complaint's charge under § 2252,, there was no rebuttable presumption of detention at the time the court granted the government's motion to detain. Based on the information presented at both hearings, the court found that the government had proved by a preponderance of the evidence that defendant is a flight risk and by clear and convincing evidence that defendant is a danger to others in the community.

The transcripts of the May 4, 2011 hearing provide the court's thought process in more detail; in essence, the flight risk is presented by the fact that defendant knew (and knows) that he faces a mandatory minimum 15-year sentence if convicted of the production charge in the indictment, a prospect that would cause any rational person to consider flight. The court does not have active GPS capability in Ellsworth, Wisconsin, so it has limited tools available to determine defendant's whereabouts if he were to flee, and the risk of flight cannot be completely abated even with third party custodians from defendant's family.

As for danger, at the May 4, 2011 hearing, the government provided physical evidence corroborating that the image on family camera of a prepubescent boy's genitals (flanked by a lascivious written note apparently meant for a member of the group with whom defendant allegedly shared child pornography) was defendant's son. The government also provided a synopsis of a recent debriefing of an alleged coconspirator who claims that defendant reported sexually assaulting each of his male children when they were very young, and assaulting his son's friends when they were asleep at his house for sleepovers. The government's evidence of the meticulous methods defendant employed to cover his tracks when communicating with others allegedly in his group show that defendant is smart enough and technologically savvy enough to find ways to evade at least some of the restrictions the court might

put on him (regarding viewing and communicating electronically) if he were to be released.

Therefore, it is ORDERED that the defendant is committed to the custody of the United States Marshals Service for confinement at a proximate jail separate from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with his attorney. On order of this court or on request of an attorney for the Government, the jail shall deliver the defendant to the Marshals Service for the purpose of an appearance in this case.

Dated: May 9, 2011

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge