

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM BOMA,

Defendant.

MEMORANDUM AND ORDER

06-CR-183-S-01

The government's motion pursuant to Title 18, United States Code, Section 3145(a)(1), for an order revoking the order of release previously entered by the United States Magistrate Judge for the United States District Court for the Western District of Wisconsin, came on to be heard before the Court in the above-entitled matter on October 19, 2006, the government having appeared by Erik C. Peterson, United States Attorney for the Western District of Wisconsin, by Paul W. Connell, Assistant United States Attorney; defendant in person and by Jeff W. Nichols. Honorable John C. Shabaz, District Judge, presided.

On October 4, 2006 a five-count indictment was returned against the defendant for conspiracy to manufacture methamphetamine, manufacture of methamphetamine, conspiracy to possess materials, chemicals and equipment to manufacture methamphetamine (2 counts) and conspiracy to distribute and to possess with intent to distribute methamphetamine.

After a hearing on October 17, 2006 the Magistrate Judge ordered defendant released from which the United States has appealed.

The Court has reviewed the nature of the offense. On October 10, 2004 defendant was served a target letter by the United States Attorney's Office for the Western District of Wisconsin. Based upon the voluntary statement defendant gave to police after his arrest, he admitted among other things to acquiring pseudoephedrine for purposes of manufacturing methamphetamine along with his co-conspirator, Ryan Papenfuss, who was recently sentenced before this Court on May 12, 2006. Papenfuss had admitted to manufacturing methamphetamine with the defendant and to possessing pseudoephedrine with the intent to manufacture methamphetamine.

The Court has also reviewed the weight of the evidence against defendant which is strong. In addition to the above evidence several witnesses have given statements to law enforcement and testified before the grand jury that they have traveled with defendant to acquire methamphetamine, seen defendant distribute methamphetamine and have acquired methamphetamine for defendant which he subsequently distributed.

The Court has also reviewed the history and characteristics of defendant which are set out in the October 13, 2006 pretrial services report. Defendant's criminal history includes several instances of non-appearance for court hearings.

All of the above have been set forth in the government's appeal from the Magistrate's release order.

The Controlled Substances Act, Section 3142(e) imposes a rebuttable presumption that no combination of release conditions will assure defendant's appearance and the safety of the community. As stated above, the government has strong evidence of the charged offenses. Defendant is a danger to the community based upon the amount of drugs and the length of time involved. He is also a flight risk as he is facing a possible substantial prison sentence for the first time.

The Court is of the opinion that the Magistrate Judge granted defendant's release under the impression that defendant did not continue his drug trafficking activities after receiving the target letter. After reviewing the documents and other evidence which were provided defendant, the Court determines this belief to be erroneous. The statement of Alicia Sacia demonstrates defendant continued to distribute and obtain methamphetamine during the period after the target letter corroborating the statements of Ryan Papenfuss, who advised of defendant's assistance in the disposal of items used to manufacture methamphetamine on three occasions after completion of a manufacturing process. Defendant's conduct before and after receiving the target letter persuades this Court that he continues to be a danger to the community.

Although defendant has presented a release plan, it is no more than house arrest with his mother and is not sufficient to mitigate the risk of danger the defendant presents to the community or his flight risk.

Accordingly,

ORDER

IT IS ORDERED that the government's motion for revocation of release order is GRANTED and defendant is committed to the custody of the United States Marshals Service for confinement separate from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultations with his attorney. On order of this Court or on request of an attorney for the Government, the facility shall deliver defendant to the Marshals Service for the purpose of appearances in this case.

Entered this 19th day of October, 2006.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge