

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN D. LOFFTIN,

Defendant.

ORDER
06-CR-205-S-01

The government's appeal from the Magistrate Judge's November 13, 2006 release order came on to be heard before the Court in the above entitled matter on November 16, 2006, the plaintiff having appeared by Erik C. Peterson, United States Attorney for the Western District of Wisconsin, by Laura Przybylinski-Finn, Assistant United States Attorney; defendant in person and by Jonas Bednarek. Honorable John C. Shabaz, District Judge, presided.

On November 8, 2006 an indictment was returned against the defendant charging him with possessing ammunition after having previously been convicted of a crime punishable by a term of imprisonment exceeding one year.

Pursuant to 18 U.S.C. § 3142(g)(1) the Court reviews the nature of the offense. In this case, the indictment charges that defendant possessed 50 rounds of Winchester .380 auto ammunition.

Pursuant to 18 U.S.C. § 3142(g)(2) Court reviews the weight of evidence against defendant. The weight of the evidence against him

is exceptionally strong based upon his confession and the direct observations of an AFT agent.

Pursuant to 18 U.S.C. § 3142(g)(3) the Court reviews the history and characteristics of defendant. Defendant's criminal history includes three convictions for possession with intent to distribute cocaine. The Court notes that after his arrest in this matter, defendant admitted he had been dealing drugs during the previous two months and giving people rides to Chicago for \$500 each where presumably drug deals were concluded.

Defendant's prior periods of incarceration and supervision have not deterred him from criminal activities in the past and there is nothing to suggest he will now be deterred. His need for 24/7 supervision can best be provided with detention.

While the support of his girlfriend is a positive factor, she was not aware of defendant's drug convictions and with her employment as a dental assistant does not have the availability to provide the full-time supervision this defendant requires. He is not an appropriate candidate for release as he is a substantial flight risk. As aforesaid, he has three prior drug felony convictions, a term of parole revoked and past non-appearances, three of the four having occurred on the same date. The Court notes defendant has already fled law enforcement in this case. He is also a danger to the community by virtue of his continued drug dealings. Although he has strong ties to Madison, Wisconsin, immediate family and residence in this area, defendant is currently

unemployed and is reportedly a well known drug dealer for which the Court determines that no condition nor combination of conditions will reasonably assure defendant's appearance or protect persons and the community from the danger he represents. The risk factors substantially override any personal factors in favor of release.

Pursuant to 18 U.S.C. § 3142(b) the Court determines beyond a reasonable doubt that defendant's present release will not reasonably assure the appearance of defendant and fails to curtail his danger to the safety of other persons and the community.

Accordingly,

ORDER

IT IS ORDERED that the government's appeal from release order is GRANTED and defendant is committed to the custody of the United States Marshals Service for confinement at the Dane County 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 Dane County Jail shall deliver the defendant to the Marshals Service for the purpose of appearances in this case.

Entered this 16th day of November, 2006.

BY THE COURT:

s/
JOHN C. SHABAZ
District Judge