

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS RIVERA,

Defendant.

1:09-mj-27

TO: Evan Rikhye, Esq., AUSA
Jomo Meade, Esq.

ORDER DENYING GOVERNMENT'S MOTION TO DETAIN

THIS MATTER came before the Court on August 27, 2009, for hearing upon the government's oral motion to detain Defendant Jesus Rivera pending trial. The government was represented by Evan Rikhye, Esq., AUSA. Jomo Meade, Esq., appeared on behalf of Defendant Jesus Rivera. Defendant also was present.

I. Authorization for Detention Hearing

18 U.S.C. § 3142(f) allows such hearing in a case where the defendant is charged with a "crime of violence" or "an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act." Defendant is charged with,

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in addition to another count, possession of a firearm and possession with intent to distribute a controlled substance in violation of 21 U.S.C. § 841(a)(1).

II. Consideration of Detention

Title 18 U.S.C. § 3142(e) authorizes the Court to detain a defendant unless the Court finds that there exists a “condition or combination of conditions [that] will reasonably assure the appearance of the persons as required and the safety of any other person and the community.” Section 3142(g) enumerates factors to be considered:

(1) whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including whether, at the time of the current offense or arrest, defendant was on probation, or parole from a prior offense;

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person’s release.

The Court notes that Defendant is charged with offenses involving a narcotic drug. However, Defendant has no prior convictions nor documented violent tendencies. Moreover, Defendant has ties to this jurisdiction and has offered his sister as a proposed third-party custodian, as well as represented his willingness to submit to house arrest with electronic monitoring.

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Accordingly, the Court finds that there are conditions which would reasonably ensure the safety of any other person or the community and the appearance of Defendant as required.

WHEREFORE, it is hereby **ORDERED**:

1. The government's motion to detain Defendants is **DENIED**.
2. Defendant Jesus Rivera may be released into the custody of Mellisiah Rivera, upon compliance with the Order Setting Conditions of Release filed separately.

ENTER:

Dated: August 27, 2009

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE