

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

UNITED STATES OF AMERICA

VS.

NO. 3: 06-CR-36 (CAR)

WALTER RICHARD McDUFFIE,

VIOLATION: 18 U.S.C. §702, Etc.

Defendant

ORDER OF DETENTION PENDING TRIAL

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a DETENTION HEARING was this day held in the above-captioned case before the undersigned. The defendant was represented by Mr. Charles E. Cox, Jr. of the Macon Bar; the United States was represented by Assistant U. S. Attorney Verda Colvin. Based upon the evidence proffered to the court by counsel for the parties at the Initial Appearance hearing held on October 6, 2006, and the hearing this day held, and the contents of the Pretrial Service Report dated October 6, 2006, as well as argument and comments of counsel, I conclude that the following facts require the detention of the defendant pending the trial of this case

PART I - FINDINGS OF FACT

(1) There is PROBABLE CAUSE to believe that the defendant has committed an offense

for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act.

under 18 U.S.C. §924(c).

(2) The defendant has not rebutted the presumption established by finding (1) that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

ALTERNATIVE FINDINGS

(1) There is a serious risk that the defendant will not appear.

(2) There is a serious risk that the defendant will endanger the safety of another person or the community.

PART II - WRITTEN STATEMENT OF REASONS FOR DETENTION

Applying the factors set forth in 18 U.S.C. §3142(g), I find that the evidence proffered at the DETENTION HEARING, as supplemented by information contained in the Pretrial Services Report of the U. S. Probation Office dated October 6, 2006, establishes by clear and convincing evidence that no condition or combination of conditions set forth in 18 U.S.C. §3142(c) will reasonably assure the future appearance of defendant McDUFFIE were he to be released from custody at this time. While the offenses charged against the defendant are not ones for which he faces long-term imprisonment if convicted, the defendant cannot provide assurances to the court that he would be available for supervision by the U. S. Probation Office or available for future court appearances if released from custody; his estimated guideline sentencing range is 0 to 6 months in prison if convicted as charged. The weight of evidence appears to be strong that defendant McDuffie unlawfully wore a naval officer's uniform.

Defendant McDuffie has a limited conviction record, to-wit: FORGERY, 1992, Superior Court of Fulton County, Georgia; and, SIMPLE BATTERY, 1995, State Court of DeKalb County, Georgia.

Defendant McDuffie has been diagnosed as bipolar. He has a history of severe depression and has lived at various homeless shelters in the Atlanta area. He has been homeless and unemployed since July of 2006, making pretrial supervision virtually impossible. Therefore, despite the relatively short sentence of incarceration he faces if convicted (0 to 6 months), the undersigned has no alternative but to order his pretrial detention. **IT IS SO ORDERED.**

PART III - DIRECTIONS REGARDING DETENTION

The defendant is hereby committed to the custody of the Attorney General of the United States or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

SO ORDERED, this 10th day of OCTOBER, 2006.



**CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE**