

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CRIMINAL DIVISION - FELONY BRANCH

UNITED STATES OF AMERICA : Criminal No. F-4057-01  
v. : Judge Michael Kramer  
INGMAR A. GUANDEQUE : Trial Date: Sept. 24, 2001

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND ORDER OF DETENTION PENDING TRIAL

This matter came before the Court on July 5, 2001, upon a prior oral motion of the United States to hold the defendant without bond pending his trial within one hundred days pursuant to 23 D.C. Code § 1322(b)(1)(a). Having considered the factors enumerated in 23 D.C. Code § 1322(e), the nature and circumstances of the offense charged, the testimony of United States Park Police Officer Christopher Cunningham, the report and recommendation of the Pretrial Services Agency, and the arguments of counsel for the United States and for the defendant in accord with 23 D.C. Code § 1322(g)(1), the Court makes the following findings of fact and conclusions of law:

1. The defendant was arrested on July 1, 2001, and presented on a complaint of one count of Kidnaping While Armed July 2, 2001. On the government's motion pursuant to 23 D.C. Code § 1322(b), defendant was held without bond that day, pending a detention hearing scheduled for July 5, 2001.

2. At the detention hearing, the government presented

evidence through the testimony of Officer Cunningham; the defendant presented no evidence. Based on the testimony of Officer Cunningham, the Court finds, by a substantial probability, that on July 1, 2001, at or about 7:30 p.m., in Rock Creek Park on Beach Drive, south of Wise Road, N.W., within the District of Columbia, defendant committed a crime of violence, that is, Kidnaping While Armed, as defined in 23 D.C. Code § 1331.

3. Specifically, the Court finds the following facts. On July 1, 2001, at or about 7:30 p.m., the complaining witness was jogging in Rock Creek Park, when the a man, later identified as Ingmar A. Guandegue, ran pasted her, made a U-turn, and began pursuing her. The complainant heard the footsteps behind her speed up, and defendant grabbed her in a bear hug. As a result, both fell from the jogging trail into a ravine. Complainant screamed, and defendant told her to be quiet. Defendant also asked if complainant was alright. However, he produced a knife with a five-inch-blade and held it to her chin. After struggling for a time she stopped and defendant relaxed his grip. Once defendant relaxed, complainant began to struggle and scream again, this time breaking free from the defendant. Fleeing, complainant returned to Beach Drive where she flagged down a passing motorist. Defendant escaped into the woods.

Complainant reported the incident to United States Park Police. The Park Police broadcast a lookout to several police cars and a helicopter. Approximately forty-five minutes after the

incident, defendant (whose appearance and clothing matched complainant's description of her assailant) was stopped at the corner of Joyce Road and 16<sup>th</sup> Street. In a show-up, the complainant positively identified the defendant as the person who had assaulted her.

When questioned, defendant stated that he had indeed been jogging on Beach Drive when he had stopped to massage a muscle cramp in his leg. He claimed that a woman had run into him causing them to become entangled and fall from the jogging trail into the ravine. According to defendant, when he attempted to help the woman up she began to struggle and scream.

4. Having found by a substantial probability that the defendant committed a crime of violence while on release pending sentencing following a guilty plea to Second Degree Burglary in case F-2793-01, the Court finds and holds that there is "a rebuttable presumption that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community . . . ." 23 D.C. Code § 1322(c)(4). Given the nature and circumstances of the offense, the strength of the evidence adduced by the government at the hearing, and the lack of any defense evidence concerning either the crime charged or the danger to any person or the community posed by defendant's release, the Court finds that defendant has not rebutted that presumption in this case.

5. In determining whether there are conditions of release

that will reasonably assure the appearance of the defendant as required or the safety of any other person or the community, the Court has considered the following factors, in addition to the presumption established under 23 D.C. Code § 1322(c), which the defendant has not successfully rebutted:

a. The nature and circumstances of the offense charged. Here, there is a substantial probability that defendant committed a crime of violence as defined under 23 D.C. Code § 1331(4). His statements to police eliminate any question of identity for he places himself squarely at the scene of the crime.

b. The weight of the evidence against the defendant. Here, the evidence is un-controverted, and defendant's version of events as recounted to the police lacked credibility.

c. The history and characteristics of the defendant. Here, the defendant has pleaded guilty to Second Degree Burglary and was on release pending sentencing for that offense. The commission of this offense indicates that defendant does not comply well with court supervision.

d. The nature and seriousness of the danger to any person or the community that would be posed by the person's release. Here, the evidence suggests that defendant accosted a woman with a knife at random on a public jogging path for no lawful reason.

WHEREFORE, having considered the provisions of 23 D.C. Code § 1322, and the factors set forth in 23 D.C. Code § 1322(e), the

Court finds, by clear and convincing evidence, that there is no condition or combination of conditions, as set forth in 23 D.C. Code § 1321(c), which will reasonably assure the appearance of the person as required or the safety of any other person and the community.

Accordingly, it is this \_\_\_\_ day of July, 2001,

ORDERED that the defendant be held without bond for a period not to exceed one hundred days from July 1, 2001, until the trial or other final disposition of this matter.

AND FURTHER ORDERED that the defendant be committed to the custody of the Attorney General of the United States for confinement in a facility separate, to the extent practicable, from persons awaiting or serving sentences or being held pending appeal; and that the defendant be delivered to the United States Marshall or other appropriate person for appearance in a court proceeding.

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DATE

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JUDGE NOEL KRAMER

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