

ATTACHMENT A

A detention hearing was held on September 28, 2010, at which the proffer of the Assistant United States Attorney ["AUSA"] was as follows: Defendant has been charged in Counts 1 and 2 in a multi-count indictment with conspiracy to distribute and possess with intent to distribute 280 or more grams of cocaine base, and with conspiracy to possess with intent to distribute and to distribute 100 or more grams of heroin, respectively. According to the AUSA, if convicted, defendant faces a mandatory minimum term of imprisonment of ten years on Count 1 and a mandatory minimum term of imprisonment of five years on Count 2.

The AUSA proffered that starting in 2009, federal law enforcement began an investigation of alleged drug activity in the North End of Hartford, known as the "Upper Albany" area, where there had been a "high incidence of gang activity and violence." The FBI and DEA obtained a wiretap of the telephone of the primary target, defendant Joseph Smith, a/k/a "Nitty." Defendant Harris, a/k/a "BK," was intercepted on this wiretap, proving himself to be a "prolific drug dealer" who was "closely associated" with defendant Smith. The AUSA further proffered that the two operated out of a location on Edgewood Street, in the Upper Albany area, often having a "line of customers" outside, waiting to purchase crack cocaine, heroin, or marijuana. The AUSA continued that defendant Harris often used defendant Smith's telephone, placing orders and negotiating prices and quantities with their suppliers and customers. The AUSA recounted numerous drug transactions in which defendant Harris participated on defendant Smith's behalf.

In an intercepted telephone conversation on March 29, 2010, defendants Smith and Harris discussed how defendant Smith was required to report to his state Probation Officer regarding his attempt to find employment. According to the AUSA, defendant Harris provided defendant Smith with instructions on how to obtain false documentation that he was working at a barber shop.

The AUSA further proffered that in another intercepted telephone conversation on April 16, 2010, defendants Harris and Smith discuss the sexual assault of the daughter of one of their friends; they devise a plan in which they would tell the alleged assailant (who was one of their customers) that they have a job for him, they would not act suspicious, and then they “work this n_____ over.” At the end of the conversation, defendant Smith commented that there might not be truth to the rumor of the sexual assault and “calmed [defendant] down.” According to the AUSA, this conversation is indicative of defendant Harris’ “inclination to exact revenge.”

The AUSA proffered that three days later, someone attempted to rob defendant Smith in the driveway, or behind the house, on Edgewood Street. On May 2, 2010, defendant Harris engaged in a “series” of telephone calls with defendant Smith, trying to determine who was responsible. When they eventually were able to identify the attempted robber, defendants Smith and Harris engaged in another “series” of telephone calls, in which they were assembling weapons and “food” (i.e., ammunition), including a “Dirty Harry” with “some food in it” and a 40 caliber gun, in order to “exact revenge” against this robber. The Hartford Police Department and the FBI were so concerned about these conversations that they “flooded” the area in order to prevent any further violence. In one conversation, defendant Smith indicated that he was “about to get food” for his 40 caliber weapon, but stopped when he noticed a HPD vehicle in the area.

According to the AUSA, these conversations resumed the next day, when defendant Smith indicated that he was “going to get food” for this same weapon, and that he was “trying to find someone else to do the task.” Defendant Harris offered that he was “looking for someone from the East,” and did not want anything to happen during the daytime. That day, the HPD stopped defendant Smith’s automobile, and found marijuana and two Ecstasy pills; the HPD also stopped defendant Harris’ automobile, and found marijuana and a .357

revolver. Defendant Harris remained in state custody on these charges for one month, before entering a guilty plea to possession of a controlled substance. While defendant Harris was still in custody, on June 6, 2010, he had two telephone calls with defendant Adams, in which he admitted that he had his “hammer on me,” but had disposed of the guns before the police stopped him, and he had put his “ya” (i.e., marijuana) in his mouth.

On September 18, 2010, a search warrant was executed at an apartment on Oakland Street in Hartford, where the target resided on the second floor. At the time the warrant was executed, defendant Harris was standing in the door, with a jacket “hanging over the bannister,” where a gun was located in the pocket. Three firearms were seized, including a forty caliber weapon (believed to be the one defendant disposed of on May 3), and a .44 magnum revolver, known as a “Dirty Harry.”

The AUSA proffered that the wiretaps demonstrate that defendant Harris played an “integral role in the drug conspiracy,” and a clear “willingness to get involved in violence.” He described the “hundreds” of telephone calls between defendant Smith and Harris as “overwhelming” evidence of guilt.

The AUSA also summarized defendant’s long criminal record, which is described at length in the Pretrial Services Report prepared by the U.S. Probation Office [“USPO”]; his prior convictions include multiple failures to appear [“FTA”], acts of violence, and drug transactions. Focusing just upon defendant’s involvement with the state court system in 2010, defendant was arrested on May 3, kept in custody for one month, was released on two years’ probation, and then on June 11, 2010, was arrested in a motor vehicle stop for possession of narcotics. Two days later, he was intercepted on defendant Adams’ telephone, indicating that he had just returned from New York, where he purchased thirty to forty grams of heroin.

The AUSA further proffered that the \$650,000 non-surety bond suggested by defense

counsel was “meaningless,” especially since his father, mother, and sister, all suggested as co-signers, have extensive criminal records, as detailed in the Pretrial Services Report.

Defendant proffered that defendant was born in Brooklyn, has lived in Hartford for more than thirteen years, and currently resides with Natoya Campbell, who works full-time at St. Francis Hospital. He completed ninth grade at Weaver High School, did volunteer work for Catholic Charities on Asylum Avenue in Hartford, and was gainfully employed as a demolition worker from 1997 through 2000, and worked in a warehouse in 2005. Defense counsel further proffered that defendant had arranged for a job interview at Appleby’s in Hartford, but this arrest precluded him from attending.

Defense counsel recognized that while defendant has a significant number of convictions for FTA, three of them occurred when he was only seventeen and eighteen years old and one when he was twenty-one years old. In all instances, defendant resurfaced within in four days, two months, or four months of the FTA arrest warrants. Defense counsel described his client as “hopelessly irresponsible,” but that his non-appearances did not reflect a “desire to avoid criminal prosecution.” Defense counsel also indicated that defendant’s previous record, which includes kidnaping and burglary charges in 2006, is not an “accurate barometer of defendant’s capacity,” and he knows “he can do better.”

Defense counsel emphasized that the victim of the sexual assault was only six years old, that defendant’s response “would not be the first time a man let his testosterone do the talking,” and that defendant did not “follow through” on his threats to injure the suspect. Similarly, he described the conversations between defendants Smith and Harris after the attempted robbery as “two men spouting off” so as to “appear more menacing.”

Defense counsel suggested a bond package in which defendant’s father serve as third party custodian, with a \$650,000 bond co-signed by defendant’s father, mother, sister and girlfriend. (See also Dkt. #126). Defense counsel also recognizes that while defendant’s

family is “dysfunctional,” the bond package is still significant to them.

The USPO agreed that defendant presents a risk of flight and a danger to the community if not detained. The Probation Officer described defendant’s five FTA’s as “troubling,” especially since three of them were felonies, and not nolle out in state court, as is usually the case. In addition, he has been charged twice by the DOC with absconding from parole. He also opined that defendant’s father would not be an appropriate third-party custodian, because of the father’s numerous convictions for similar offenses, narcotics and weapon charges.