

DOCUMENT A34: MOTION TO REDUCE DETENTION

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Family Division -- Juvenile Branch

In the Matter of : Docket J-7676-54
: Social File 654321
***** : Magistrate Judge Name
: Further Initial: October 11, 2002
Respondent :

MOTION TO REDUCE DETENTION

*****, through undersigned counsel, respectfully moves this Court to reduce her detention and allow her to reside with her aunt and uncle, D. and D.M. in Bowie, Maryland. In support of this motion, counsel states the following:

1. *****, was presented at an initial hearing on October 5, 2002 on a preliminary allegation of assault with intent to kill. At that time, the government requested a 5-day hold on petitioning the case, but sought secure detention. The case was continued for further initial hearing on Friday, October, 11, 2002.
2. Because of the 5-day hold, the intake probation officer took no official position on detention but provided the Court with the following social factors: ***** is 17 years old; ***** resides with her mother, T.W., and her grandmother, C.W., in the District; ***** attends D.C. Street Academy where she has regular attendance; *****'s drug test results were not available; ***** presents no problems in the home; and ***** attends church regularly with her grandmother. Intake probation officer, Name, advised counsel that had the case been petitioned on October 5, the recommendation would have been for release to mother with intensive supervision.
3. The government sought secure detention in light of the nature and circumstances of the allegation and because there was information that the complainant's boyfriends wanted to hurt *****
4. The Court found probable cause and securely detained ***** at Oak Hill.
5. Since October 5, 2002, undersigned counsel has gathered significant new social information that was not available to the Court at the time of the initial hearing.
6. Most significantly, counsel was provided with a name and phone number for *****'s aunt and uncle who live in Bowie, Maryland. Counsel contacted D. and D.M. who expressed great willingness to allow ***** to live with them in Bowie. Mr. M. indicated that he has actually invited ***** to live with him in the past.
7. Counsel provided the new information to Probation, *****'s intake probation officer. Ms. Probation conducted a home study in Bowie, Maryland on Tuesday, October 8, 2002 and met with the uncle D.M. Ms. Probation advised counsel that the home visit went well with Mr. M. and advised counsel that the M.'s have a nice home. Mr. M. took time off from work to make himself available to Mr. Probation for the home study. Ms. D.M. will take time off from work to make herself available to the Court at the further initial hearing.

Lesson 10 – Challenging Probable Cause and Detention

8. D. and D.M. reside at Address, Bowie, Maryland 20716. The M.'s have a beautiful home, which they are in the process of purchasing. Their neighborhood is in a very quiet residential location where there is very little activity and where children do not hang out in the streets. Mr. M. is a driver for Company and Mr. M. is a social worker with the District of Columbia Public Schools.
9. Placing ***** in Bowie will alleviate the government's concerns about *****'s safety. Mr. M. advised counsel that their home is not accessible to the District of Columbia by either bus or metro, therefore ***** can only get to the District if she is driven. Placement with the M.'s will also provide ***** with even greater structure and support than she had in the District, as the M.'s have a two-parent home, stable and professional careers, and will be great role models for ***** All of her family members describe ***** as a good child and know that ***** will abide by any rules or regulations the M.'s impose on her. As stated by Mr. M., "If I tells ***** to do something, ***** will do it without hesitation or back talk."
10. Mr. M. reports that he has spent a great deal of time with ***** over the years and that ***** always respects and obeys him. When she has visited the family or spent the night at their house, she helped with chores and followed the rules. Mr. M. describes ***** as a "good child" who has the love and support of an extended family. The M.'s will also insist that ***** attend church with them just as she attended church with her grandmother.
11. D.M. asked counsel to obtain school records and provided counsel with a list of three possible school options for ***** in the Bowie area. Ms. M. discussed Bowie Senior High, Bladensburg High School and a GED program at Eleanor Roosevelt in Greenbelt, Maryland. By attending school in Maryland, ***** will neither be a risk of danger or a threat of danger to the parties in this case.
12. ***** is also not a threat to anyone else in the District. She is 17 years old with no prior contacts with the court and no history of violence. ***** has a great deal of family support. Prior to her arrest, ***** lived with her mother, T.W., and grandmother, C.W. *****'s grandmother is a nurse. ***** attended church regularly with her grandmother at Church and sang in the choir. ***** has two older sisters and an older brother who care for her a great deal. Although she was not residing with her father, ***** has a great relationship with her father, J.M., who she sees every day. Mr. M. resides at Address and works for the District of Columbia.
13. Although the court found probable cause, there were many mitigating circumstances: 1) the altercation involved four girls (the complainants) ranging from 170-200 lbs and one respondent (*****); 2) ***** received extensive injuries and was treated at Howard University Hospital; 3) the complainants do not live in *****'s neighborhood but were present in *****'s neighborhood at the time of the altercation; and 4) one of the complainants in the present case is currently pending charges for stabbing *****. ***** was treated at Children's Hospital at that time.
14. Pursuant to DC Code Section 16-2310(a) and Juvenile SCR 106(a), children should only be detained if detention "is required to protect the person or property of others or of the respondent, or to secure the respondent's presence at the next court hearing." Furthermore, pursuant to Juvenile SCR 106(a)(5), even if detention appears to be justified, the person making the detention decision "may nevertheless consider whether the respondent's living arrangements and degree of supervision might justify release pending adjudication."

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15. Because counsel has identified alternative living arrangements that will take ***** out of the District of Columbia and away from the conflict; because ***** has no prior contacts with the system; because ***** will be in a highly structured environment; and because the nature and circumstances of the offense alone do not justify detention, ***** should be released to her aunt and uncle.

Wherefore, for the foregoing reasons and any other that may be offered to the Court at the further initial hearing, ***** hereby moves this Court to release her to the custody of Mr. D. and D.M.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion, was served by hand on Assistant Counsel, Name, in person at 123 Fourth Street, N.W., Fourth Floor, Washington, D.C. 20001 on this 10th day of October, 2002.

Attorney
