

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Jerome Shell a/k/a Gerome Shell,)	Case No. 1:02-cr-069
)	
Defendant.)	

The court conducted detention and preliminary hearings in the above-entitled action on August 26, 2008. AUSA David Hagler appeared on the Government’s behalf. Assistant Federal Public Defender William Schmidt appeared on the Defendant’s behalf. United States Pretrial Services and Probation Officer David Hohn provided testimony.

For the reasons articulated at the close of the hearing, the court finds there is probable cause to believe that the Defendant violated the conditions of his supervised relief as alleged. Accordingly, the court binds the Defendant over to answer the charges set forth in the petition.

With respect to the issue of detention, the court finds that the Defendant has met his burden of demonstrating that he is not a flight risk. However, the court also finds that the Defendant has not met his burden of demonstrating that he poses no risk to the community. Included as part of the reasons expressed on the record were the Defendant's extensive criminal history, the nature of his underlying conviction, the Defendant's history of substance abuse, and the testimony of Officer Hohn. The court expressly finds that electronic monitoring in this instance will not protect the community from further drug dealing and usage, as well as associated criminal activity.

Accordingly, the court **GRANTS** the Government's Motion for Detention and **FURTHER ORDERS** that the Defendant be committed to the custody of the Attorney General 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 a reasonable opportunity for private consultations 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.

Dated this 26th day of August, 2008.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court