

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

| | | |
|---------------------------|---|-----------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 09-cr-10081 |
| |) | |
| DONALD FLOYD CHERRY, |) | |
| |) | |
| Defendant. |) | |

**ORDER DENYING IN PART MOTION TO SET INITIAL APPEARANCE AND
ARRAIGNMENT OF DONALD F. CHERRY**

Defendant has filed his Motion to Set Initial Appearance and Arraignment of Donald F. Cherry (Doc. 39), which contains a request that the Court reconsider the detention of Defendant. On August 4, 2009, this Court ordered Defendant to file a Memorandum in Support of his request for reconsideration of the Court’s detention order, “citing briefly why he believes circumstances have changed that would justify the Court’s reconsideration of detention.” On August 5, 2009, Defendant filed his Memorandum in Support.

18 U.S.C. § 3142(f) provides that a detention hearing may be reopened at any time before trial “if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.”

Here, Defendant fails to satisfy the requirements for reopening his detention hearing. The only information set forth in Defendant’s Memorandum that was not known to Defendant at the time of his detention hearing is the outcome of Defendant Carolyn Cherry’s detention

hearing. The outcome of her hearing has no material bearing on the issue of Defendant's detention. Accordingly, Defendant's request for reconsideration of his detention is DENIED.

IT IS SO ORDERED.

s/ Edward G. Bryant
EDWARD G. BRYANT
United States Magistrate Judge

August 6, 2009
Date

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN TEN (10) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN TEN (10) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.