In the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida

State of Florida

Case no.: 16-2021-CF-

v. Division: CR-H

,

Defendant.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

Order Denying Defendant’s Motion to \_\_\_

This cause came before this Court for hearing on \_\_\_\_\_, 2021 on Defendant’s Motion to [insert title of motion]. The Court having heard argument of counsel, [taken evidence,] and being otherwise informed in the premises, denies Defendant’s Motion, finding as follows:

1. On \_\_\_\_\_\_\_\_\_, 2021, Defendant was arrested for \_\_\_\_. Bond was set at first appearance at $\_\_\_. [Alternatively: Defendant was by charged by information with \_\_\_\_\_\_\_\_\_\_. Bond is set at $\_\_\_\_\_\_ for \_\_\_\_\_\_\_\_\_\_\_.]
2. “The purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal defendant.” Fla. Stat. § 903.046(1). Florida has a presumption for pre-trial release on non-monetary conditions. Fla. Stat. § 907.041(3)(a). However, monetary conditions may be imposed “if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or at other proceedings, to protect the community from risk of physical harm to persons, to assure the presence of the accused at trial, or to assure the integrity of the judicial process.” Fla. Stat. § 907.041(3)(a). “When determining . . . what bail or . . . conditions [of release] may be, the court shall consider:” (a) the nature of the offense; (b) the weight of the evidence; (c) the defendant's family and community ties, employment history, financial resources, and mental condition; (d) the defendant’s conduct, including past convictions, flight, and failure to appear; (e) the nature and probability of danger the defendant's release poses to the community; (f) the source of funds used to post bail; (g) whether the defendant is already on release, probation, or parole; (h) the street value of any drugs involved; (i) the nature and probability of intimidation and danger to victims; (j) whether there is probable cause to believe the defendant committed a new crime while on release; and (k) any other facts the court considers relevant. Fla. Stat. § 903.046(2). Additionally, “the court may consider” (l) the penalties for the charged crimes; and (m) the defendant’s need for substance abuse evaluation or treatment. Fla. R. Crim. P. 3.131.
3. At the hearing, Defendant presented the following evidence in support of his/her motion: \_\_\_\_\_\_\_\_\_\_\_\_\_. On the other hand, \_\_\_\_\_\_ supports denying Defendant’s Motion. The Court may also take judicial notice of court records. Fla. Stat. § 90.202(6). After considering the applicable factors, this Court determines that Defendant’s \_\_\_\_\_\_\_\_\_ justifies leaving the bail set at first appearance intact and that the monetary bail of $\_\_\_\_\_\_ is necessary to assure the presence of the defendant at trial and other proceedings[, to protect the community from risk of physical harm to persons, and to assure the integrity of the judicial process.]
4. [If applicable: At the hearing, Defendant presented evidence that he/she could not afford a bond for the current bail. A defendant’s “financial resources” are one of the many factors that a court shall consider when setting bail. Fla. Stat. § 903.046(2)(c). As explained by the First District:

Simply because a defendant testifies [or an attorney argues, as in the case at bar] that he cannot meet a given bond amount does not mean the bond is per se excessive or unreasonable. [cit. omitted.] Further, “[i]n addition to a defendant’s financial resources, a trial court must consider a host of other factors in determining whether to release the defendant on bail or other conditions, and if so, what bail or other conditions are appropriate.”

*Mehaffie v. Rutherford*, 143 So. 3d 432, 434 (Fla. 1st DCA 2014); *see also Dyson v. Campbell*, 921 So. 2d 692, 693 (Fla. 1st DCA 2006). Defendants’ attorneys frequently cite the cases of *State ex rel Bardina v. Sandstrom*, 321 So. 2d 630 (Fla. 3rd DCA 1975), and *State ex rel Crabb v. Carson*, 189 So. 2d 376 (Fla. 1st DCA 1966), for the proposition that setting a bond that a particular defendant cannot possibly afford is tantamount to no bond at all. These cases do not hold exactly that since they deal with excessive bail, *Bardina*, 321 So. 2d at 631 (an “excessive bail” that a defendant cannot afford “is tantamount to no bail at all”) (emphasis added), they predate Florida’s current statute and rule-based bail setting criteria, and the First District does not take that approach. *See generally Knight v. State*, 213 So. 3d 1019, 1021-22 (Fla. 1st DCA 2017) (“no Florida decision has adopted the view” that bond a defendant cannot afford equates to statutory pretrial detention).]

1. It is therefore ordered Defendant’s Motion to [insert title of motion] is denied.

Done and orderedon \_\_\_\_\_\_\_\_, 2021**,** in Jacksonville, Duval County, Florida.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Jeb T. Branham

Circuit Court Judge

Copies furnished to: