



LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO
JOURNAL ENTRY
Hon. D. Chris Cook, Judge

Date May 23, 2017

Case No. 12CR084657

STATE OF OHIO

Plaintiff

Paul Griffin

Plaintiff's Attorney

VS

SERGIO SANTIAGO, SR.

Defendant

Brian Darling

Defendant's Attorney

This matter is before the court on Defendant's Motion For Reconsideration of Trial Court's Order Revoking Bond, filed May 19, 2017. Because the Court will rule on the Motion *sub judice*, the Entry filed May 22, 2017 ordering the State to reply is hereby vacated as moot.

It is axiomatic that Crim. R 46 "Bail" is the guidepost by which a trial court determines bail or to grant a bond and if so, in what amount. In addition, the rule provides that the Court may impose multiple conditions upon the accused that must be complied with in order to be granted bail and remain on thereto. Crim. R 46(B).

Moreover, Crim. R 46(C) enunciates the factors that the Court must consider in granting bail, to wit: the nature and circumstances of the charges; the weight of the evidence; confirmation of the defendant's identity; the defendant's family ties, employment, etc.; and, whether the defendant is on probation, etc.

Finally, Crim. R 46(E) provides that "A court, **at any time**, may order additional or different types, **amounts**, or conditions of bail." (Emphasis added.)

In addition, the Court may consider the mandates of RC 2937.222 "Hearing On Bail – Grounds For Denying." This statute provides that in certain cases, including ". . . a felony of the first degree . . ." the offender ". . . shall be denied bail."



Pursuant to the statute, in order to deny bail in a non-capital case, the Court must find by 'clear and convincing evidence' that the accused "... poses a substantial risk of serious physical harm to any person or to the community and that no release conditions will reasonably assure the safety of that person and the community." RC 2937.222(B).

At the conclusion of the hearing on May 19, 2017 on Defendant's Motion to Withdraw Plea of No Contest, the Court convened a bond hearing due to the Court's concerns that the Defendant presently posed a flight risk and revoked his bond pursuant to RC 2937.222. However, the Court failed to make the requisite finding that the Defendant "posed a substantial risk of serious physical harm" necessary to revoke his previously posted bail and thus, the order doing so was improvidently granted.

That said, this Court *still finds* that the Defendant is a flight risk; finds that the nature and circumstances of the crimes charged are heinous and carry a potential life sentence; finds that the weight of the evidence, including DNA evidence, against the Defendant is strong; and finds that these factors outweigh the Defendant's substantial ties to the community; lack of criminal history; and history of appearing at court.

Accordingly, pursuant to Crim. R 46(E), the Defendant's bail is hereby amended, to wit:

- 1) Bail is re-set to a total of \$250,000.00, \$75,000.00 having already been posted;
- 2) Court Supervised Release ("CSR");
- 3) House Arrest with Electronic, Continuous GPS Monitor at Defendant's cost;
- 4) No contact with the Victim;
- 5) No unsupervised contact with *any* minor, including family members
- 6) Defendant may attend church service on Sundays as previously ordered.

Jury trial remains set for **Monday, August 8, 2017 @ 8:30 am.**

IT IS SO ORDERED. No Record.

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Judge D. Chris Cook

cc: Griffin, Pros
Darling, Esq.