

# In the Court of Appeals of the State of Alaska

Karlie Michelle West,

Appellant,

v.

State of Alaska,

Appellee.

)  
) Court of Appeals No. A-11993  
)

## Order

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) Date of Order: September 2, 2014  
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Trial Court Case # 3AN-14-02953CR

Before: Chief Judge Mannheimer, Judge Allard, and Judge Hanley, *pro tem*<sup>1</sup>

The superior court has requested clarification of the order we issued on August 18, 2014 regarding Ms. West's application for reduced monetary bail.

1. The superior court asks us to clarify whether we are ordering the court to set Ms. West's bail in the amount of \$100,000. The answer is no; this Court takes no position on what amount of money would be an appropriate monetary bail in this case. Our order of August 18 directs the superior court to re-evaluate the amount of monetary bail in light of the income and assets available to Ms. West and her parents.

In its prior response to this Court, the superior court declared that its purpose in imposing a monetary component to Ms. West's bail (in addition to the non-monetary conditions already in place) was to "pressure ... Ms. West not to abscond" and to "[motivate] her parents [who are West's third-party custodians] to make sure she appears at all court proceedings." And as we explained in our August 18 order, this declared purpose justifies setting the monetary component of West's bail in an amount

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<sup>1</sup> Sitting by assignment made under article IV, section 16 of the Alaska Constitution.

that imposes a financial strain on her and her family, but it does not justify setting the monetary component of West's bail in an amount so high that it is financially impossible for West to secure her release.

As to exactly how the superior court should inquire into the assets available to the West family to meet the monetary component of her bail, we leave that matter to the superior court's discretion. The State should be permitted to oppose the requested reduction in bail.

2. The superior court asks this Court to tell it how much weight the court should give to the victim's views as to whether Ms. West should be released on bail, or what the conditions of Ms. West's bail should be. The appropriate legal framework for this analysis is set out in Article I, Section 24 of the Alaska Constitution, which entitles crime victims to certain rights including: (1) "the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court;" (2) "the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process;" and (3) "the right to be allowed to be heard, upon request, at . . . any proceeding where the accused's release from custody is considered." We provided an explanation of these constitutionally protected rights in *Cooper v. District Court*, 133 P.3d 692, 705-706 (Alaska App. 2006).

The superior court should also consider its obligations under the bail statute which requires the superior court to consider, among other factors, "the effect of the offense on the victim, any threats made to the victim, and the danger that the person poses to the victim" in determining the least restrictive bail conditions that "will reasonably

assure the person's appearance and protect the victim, other persons, and the community.”  
AS 12.30.011(c)(10) & (b).

3. The superior court asks this Court to tell it what to do if (a) the superior court conducts the financial inquiry we have directed and sets an appropriate monetary bail, but (b) it then turns out that Ms. West and her family are unable to post this monetary bail. Specifically, the superior court asks whether the final clause of AS 12.30.006(d)(1) — which states that a defendant's inability to post the required bail does not constitute “new information” sufficient to justify a new bail hearing — would preclude any further modification of the conditions of bail. We conclude that it is premature to address that situation.

We note, however, that the restrictions contained in AS 12.30.006 (d)(1) apply only to successive bail hearings and are intended to prevent defendants from engaging in “serial bail hearings” where there is no new information for the trial court to consider. *See* AS 12.30.006 (d); *see also* Minutes of House Judiciary Committee, House Bill 54, testimony of Assistant Attorney General Anne Carpeneti, 1:29:23 p.m. (Mar. 30, 2005).

These restrictions are therefore predicated on the assumption that there has already been a full inquiry into the “assets available to the person to meet [the] monetary conditions of release” as required under AS 12.30.011(c)(8). *See generally* Am. Jur. § 99, *Defendant's financial position or ability to post bail* (2014) (explaining bail considerations related to defendant's ability to pay and relationship to constitutional test for excessiveness).

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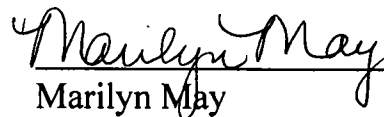
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Here, the trial court has already approved a comprehensive system of non-monetary bail conditions that require Ms. West to be under dual 24-hour supervision through both a third-party custodian and GPS electronic monitoring. The trial court has also made findings regarding Ms. West's ties to the community and her lack of any prior criminal record. However, the court has yet to make any findings regarding "[the] assets available to [Ms. West] to meet [the] monetary conditions of release." AS 12.30.011(c)(8) Because the trial court's justification for imposing the \$500,000 cash or corporate surety monetary condition rests on the untested assumption that this amount will impose a significant financial strain on Ms. West and her family, but that it will not be financially impossible to meet, further inquiry into this matter and specific findings on this issue are needed here.

Entered at the direction of the Court.

Clerk of the Appellate Courts

  
Marilyn May

cc: Court of Appeals Judges  
Judge Smith  
Trial Court Appeals Clerk - Anchorage

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