



**IN THE DISTRICT COURT OF MONTGOMERY COUNTY**

STATE OF ALABAMA )  
 )  
 V. ) Case No.: DC-2022-000093.00  
 )  
 JOHNSON TORY MASON )  
 Defendant. )

**ORDER**

Before the Court is the State's Motion to Increase Bond. After a hearing in this matter the Court finds as follows:

In Montgomery County, bail is set mostly by municipal magistrates who work for the City of Montgomery. Judges rarely set initial bonds. Those magistrates set bond in accordance with the Bond Schedule. While bonds may be set in excess of the Bond Schedule, Alabama Rules of Judicial Administration, Rule 18(2)(b) prohibits municipal magistrates from setting bonds beyond the "maximum amount posted in the bail schedule."

The case agent in this matter testified that she was unaware of a process to get a bond beyond the maximum amount in the bail schedule. When shown the form that was used in the past to secure a bond beyond the bail schedule, the case agent was unfamiliar with the form. When shown a prior case where the bail was set at \$500,000 by a municipal magistrate with judicial approval, the case agent was unfamiliar with the case. The case agent mistakenly believed that the only bond available was the top end of the bond schedule and was unfamiliar with the process to get a judge to raise the bond above the bond schedule. After conferring with the District Attorney's Office, the case agent was told that the bond could be raised later by a judge.

However, the State cannot just arbitrarily request that a judge raise a Defendant's bond when that Defendant has already made bond. The State must meet the standard set in *Alabama Rule of Criminal Procedure*, Rule 7.5 by showing that the Defendant breached a material condition of release or there was a material misrepresentation or omissions of the fact in securing the Defendant's release. Rule 7.5 states,

Upon motion of the prosecutor stating with particularity the facts or circumstances constituting a material breach of the conditions of release or stating with particularity that material misrepresentations or omissions of fact were made in securing the defendant's release... the court may revoke the release... the court may modify the conditions or revoke the release.

The rule is unclear what constitutes a material misrepresentation or omission of fact. The rule is also silent on who must make the misrepresentation or omission. This

Court has not found any case law that makes it clear.

The Defense argues that the misrepresentations or omissions can only come from the Defendant. Yet, the Defense was not able to provide case law to support their contention. However, defendants rarely make their own bonds and never set their own bonds. Consequently, the Defense's argument is without merit.

The State argues that a district court judge may at any time and without cause raise the bond of a Defendant that is within their jurisdiction who has already made bond. This would violate the Defendant's due process rights under the United States Constitution. Courts have only the authority granted to them by law. The State failed to provide any case law or statute to support this claim. The State's argument is also without merit.

Nevertheless, this Court finds that the Court has the authority under *Alabama Rule of Civil Procedure*, Rule 7.5 to amend the Defendant's bond based upon a material misrepresentation or omission of fact when securing the defendant's bond amount and release.

Additionally, this Court finds that the Defendant is a flight risk based upon him fleeing from the scene after allegedly committing the act. This Court also finds that the Defendant is a danger to the community.

It is hereby Ordered and Decreed that the Defendant's Bond is increased as follows:

DC-22-90	\$ 30,000
DC-22-91	\$ 30,000
DC-22-92	\$ 30,000
DC-22-93	\$500,000
DC-22-94	\$120,000
DC-22-95	\$120,000
DC-22-96	\$ 30,000

#### **MANDATORY CONDITIONS OF RELEASE**

In compliance with Rule 7.3, Alabama Rules of Criminal Procedure, it is Ordered that the Defendant:

- 1) Appear to answer and submit to the orders and process of the court having jurisdiction of the case;
- 2) Refrain from committing any criminal offense;
- 3) Not depart from the state or county without leave of court;
- 4) Promptly notify the court of any change of address; and
- 5) Refrain from contacting the victims in this case.

**DONE this 13<sup>th</sup> day of January, 2022.**

**/s/ TIFFANY B. MCCORD**  
**DISTRICT JUDGE**

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