

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

STATE OF DELAWARE, :
 : I.D. No. 1412017882
 v. :
 :
 :
 GEOBORIS M. WHITE, :
 :
 :
 Defendant. :

Submitted: March 12, 2015
Decided: April 14, 2015

ORDER

Upon Defendant's Motion for
Reduction of Bail.
DENIED.

Lindsay A. Taylor, Esquire of the Department of Justice, Dover, Delaware; attorney for the State.

Patrick J. Collins, Esquire of Collins & Roop, Wilmington, Delaware; attorney for Defendant.

WITHAM, R.J.

1. Before the Court is the Defendant's second motion for bail reduction.¹ Defendant seeks a reduction in Bail from \$350,000 cash in the aggregate to \$350,000 secured on 16 counts of Drug Dealing, 6 counts of Aggravated Possession, 16 Counts of Conspiracy Second Degree, Possession of a Firearm by a Person Prohibited, and Possession of Firearm Ammunition by a Person Prohibited.²

2. A hearing was conducted on March 12, 2015, with the State in opposition. These offenses are alleged to have occurred between March 2014 and January 2015 and stem from a wiretap investigation into alleged drug dealing activity in Kent County, Delaware.

3. The defense argues that the Defendant has only two misdemeanor convictions since 2003 and is self-employed in a company he owns and operated under a limited liability company selling and repairing motor bikes. He has owned a prior improvement business and is a resident of New Castle County, Delaware. The defense points out that this bail is oppressive and excessive to achieve the goal that Defendant's appearance and safety of the community will be achieved.

4. The State argues that the bail is not excessive and, in fact, is not the maximum bail that could be asked for in this case of a pervasive and extensive conspiracy to distribute drugs in the community. A weapon was found in Defendant's

¹ The first motion was denied without prejudice.

² Defendant was originally charge with 10 counts of Drug Dealing, 5 counts of Aggravated Possession and 10 counts of Conspiracy Second Degree. The original \$350,000 was reallocated to include the additional charges in the re-indictment. Therefore, in essence, a bail reduction has occurred.

possession and this must be considered as well.

5. The State points out that Defendant's record does show felony convictions in 2003 for Manufacturing a Controlled Substance, Trafficking in Cocaine, and Conspiracy acknowledged by the defense. In addition, which the Court considered significant, the State claims to have intercepted a call from the Defendant essentially saying that if he ever catches a case and he's released on bail and let out of jail he will be gone and no one will ever see him again and he won't look back. This would indicate a high flight risk on a serious case.

6. 11 *Del. C.* § 2017 provides that in determining the amount of bail to be required to be posted as surety under § 2105 of this title or to be required for an unsecured personal appearance bond of the accused, the court shall not require oppressive bail but shall require such bail as reasonably will assure the reappearance of the accused, compliance with the conditions set forth in the bond and the safety of the community. In fixing the amount, the court shall also take into consideration the criteria set forth in § 2015(b) of this title which provides that, if a person is charged with an offense punishable by fine only, the amount of the bail shall not exceed double the amount of the maximum fine for each charge. When a person has been convicted of an offense and only a fine has been imposed as the sentence of the court, the amount of bail shall not exceed double the amount of the fine.

7. In determining whether the accused is likely to appear as required and that there will be no substantial risk to the safety of the community, the court shall, on the basis of available information, take into consideration the nature and circumstances

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of the crime charged, whether a firearm was used or possessed, the possibility of statutory mandatory imprisonment, whether the crime was committed against a victim with intent to hinder prosecution, the family ties of the accused, the accused's employment, financial resources, character and mental condition, the length of residence in the community, record of convictions, habitual offender eligibility, custody status at time of offense, history of amenability to lesser sanctions, history of breach of release, record of appearances at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

8. Further, 11 *Del. C.* § 2105(c) states that notwithstanding any provision of this title to the contrary, for a person charged with committing a violent felony involving a firearm or with committing a violent felony while on probation or pretrial release, the presumption is that a cash personal appearance bond will be set.

Therefore, after weighing the factors noted above, the seriousness of this case, and given the high risk of flight, this Court concludes that converting the aggravate \$350,000 cash bail to secured must be *denied*.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.
Resident Judge

WLW/dmh
oc: Prothonotary
xc: Lindsay A. Taylor, Esquire
Patrick J. Collins, Esquire