

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA

State of Florida  
Plaintiff,

Case Number: 01-2023-CF-003288-A

Division I

vs.

Daniel Julio Dominguez  
Defendant.

**MOTION FOR RECONSIDERATION OF POST-TRIAL BOND**

COMES NOW the State of Florida, by and through the undersigned Assistant State Attorney, and hereby files this Motion for Reconsideration of Post-Trial Bond for the above named Defendant, and the State arrests:

**PROCEEDINGS: Pretrial**

1. On October 19, 2023, the Defendant was arrested for, inter alia, one count of Written Threats to Kill, Do Bodily Injury, or Conduct a Mass Shooting or Act of Terrorism, and was subsequently given a \$ 1 Million bond on that count.
2. On November 14, 2023, the Defendant's bond on that count was reduced to \$500,000 following a bond reduction hearing.
3. On December 21, 2023, the State filed an Information charging the above count.
4. The Defendant filed a petition for writ of habeas corpus on January 09, 2024, and following response from the State, the First District Court of Appeals, on January 31, 2024, issued its Order on said petition finding "[Defendant] shall be released on Monday, February 5, 2024, at noon, unless the trial court enters an order setting reasonable conditions of pretrial release or conducts further proceedings and enters an order under section 907.041(5)(c), Florida Statutes."
5. In accordance with the DCA Order, proceedings under section 907.041(5)(c)5. were held on February 02, 2024, wherein the State moved for pretrial detention based on the Defendant being charged with a dangerous crime, and representing a threat of harm to the community. Said motion was granted by the trial court, and the Defendant was held, pending trial, on no bond.

**PROCEEDINGS: Trial and Post Trial**

1. Trial in the above styled case was held March 04-06, 2024, with the jury finding the Defendant guilty as charged in the states Information [second amended information – one count of Written Threats to Kill, Do Bodily Injury, or Conduct a Mass Shooting or Act of Terrorism].
2. Following the verdict the Court, Honorable Peter K. Seig, ordered a pre-sentencing investigation (Defendant is entitled to a PSI), and indicated that the Court would remand the defendant on the pre-trial bond, pending a sentencing date to be determined.
3. The State and the Defense advised the court that due to the defendant being held pursuant to section 907.041(5)(c), Florida Statutes, and Rule 3.132, Florida Rules of Criminal Procedure, the defendant was held *pretrial* and both State and Defense believed that the Court needed to issue a more specific remand, as the pretrial portion had now expired.

4. The State requested that the Defendant be remanded to custody without bond, consistent with the dangerousness finding pretrial; the defense argued for recognizance release.
5. The Court made inquiries of the State and defense regarding the procedure to hold the Defendant on no bond, i.e., Rule 3.132 and section 907.041, following the verdict, indicating the Court's belief that the State was required to file a pretrial detention motion. The defense advised the court that such procedure was inapplicable at that point, as the rule and statute govern pretrial, not post verdict.
6. The Court inquired of defense if electronic monitoring was available post verdict pending sentencing, which the defense was unable to advise one way or the other.
7. The State reiterated that the State was seeking remand pending sentencing on no bond, consistent with the pretrial dangerousness findings, highlighting that said finding specifically found the Defendant to be a danger such that no reasonable conditions of release could guarantee safety to the community.
8. The Court ultimately ordered the Defendant remanded and set bond at \$5,000. The Court did not set any additional conditions.

### **THIS MOTION AND RELIEF SOUGHT**

Through this motion, the State prays that this Court will conduct a hearing to reconsider the Trial Court's setting \$5,000 bond for the above named defendant, and to revoke and remit any bond posted, and to remand the Defendant into custody presentencing, to be held without bond, and alleges, as grounds for said request:

Rule 3.550, Florida Rules of Criminal Procedure, states “[i]f a verdict of guilty is rendered the defendant shall, if in custody, be remanded. If the defendant is at large on bail, the defendant may be taken into custody and committed to the proper official or remain at liberty on the same or additional bail as the court may direct.”

A criminal defendant has “no constitutional right to bail after a verdict of guilty has been rendered.” Kraft v. State, 156 So.3d 1116 (FL 4DCA 2015). While the Kraft court announced that release pending sentencing was discretionary, it did so while citing only the second sentence of Rule 3.550, as the defendant there was already out on bail pretrial. *Id.* at 1118. The State is unable to find any cases addressing the issue of presentencing release following guilty verdict where the defendant was not on release pending trial. Nor is there any Florida Statute governing post verdict/presentence release. Therefore, the state asserts that the plain reading of the rule indicates error by the trial court, because the first sentence is a definite statement without condition. Put plainly, a defendant in custody shall be remanded, period. Only a defendant at large on bail may be given bail.

Even if the Court disagrees with the State's reading of Rule 3.550, this facts and proceedings of this case indicate error that should be reconsidered, and warranting the Defendant's continued detention without bond. In support of this argument, the State asserts:

1. The defendant was deemed a danger to the community pretrial. The guilty verdict only affirms that concern, not lessens it.
2. The Defendant in this case was charged for making a threat to, colloquially, “shoot up” a middle school. It is clear from the record that school was Kanapaha Middle School, where the defendant resides .7 miles from. Regardless, all schools in Alachua County are at risk.
3. It appears from the proceedings following the rendering of the verdict, there is a substantial likelihood of error on the part of the trial court in applying pre trial release principles to post

verdict detention proceedings, in that it appears the court believed that the state could file a motion under the rules for detention.

4. The undersigned Assistant State Attorney has spoken to the following individuals from the community who voice concern, and would be willing to testify in support of this motion at any hearing.
  - a. Principal Esetes, Kanapaha Middle School: “no idea what would prevent him from coming to the school” to carry out the threat.
  - b. Chief Doug Pelton, School Board of Alachua County, who oversees implementation of the Florida Model for school safety pursuant to Florida Administrative Code 6A-1.0019 and section 1006.07(7), Florida Statutes has indicated that this defendants release has triggered required implementation of safety protocols within an already taxed system.
  - c. Dr. Kristen Iannuzzi, District Threat Management Coordinator who reiterates additional strain on her department due to the “true threat” nature of the defendant.
  - d. Lt. Rob Koehler, Gainesville Police Department, supervisor of School Resource Officers, who has advised that the SRO bureau is critically understaffed.

WHEREFORE, the State prays that the Court will Order a hearing, as immediately as possible, on this Motion to consider the relief sought herein, to wit, revoking the pre sentencing bond, remitting any bond posted, and remanding the defendant pre sentencing, without bond.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Alexis J. Giannasoli, Attorney for the Defendant, by E-Service, this 7th day of March, 2024.

Brian S. Kramer  
State Attorney

/s/ Ryan Nagel  
Ryan Nagel  
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