

IN THE TWENTY-FIRST JUDICIAL CIRCUIT COURT
SAINT LOUIS COUNTY, MISSOURI

STATE OF MISSOURI)	
)	
Plaintiff)	Cause No. 21SL-CR00998
)	
v.)	Div. 40
)	
ANGELA FREINER)	
)	
Defendant)	

DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION FOR BOND RECONSIDERATION

COMES NOW Angela Freiner, through her attorney Evita Tolu, and files her response to Plaintiff’s Motion for Bond Reconsideration. Defendant also requests the Court to uphold the Court’s previously granted release of Defendant on her own recognizance as mandated by Mo. S. Ct. R. 33.01(c) and 33.05. The previously ordered release on Defendant’s own recognizance assures Angela’s appearance in Court at future hearings.

FACTS

1. Angela Freiner (“Angela”) is a pro se litigant in family court proceedings in case *Judy v. Freiner*, 21SL-DR00544 pending in Saint Louis County Circuit Court. The case was filed by James Judy (“Judy”), who is the father of Angela’s fourteen (14) year-old daughter, Delilah Judy (“Delilah”).
2. Delilah was born and raised solely by her mother, Angela. Until August 2020, Delilah resided full time with her mother.
3. Judy’s relationship with Angela has been violent since its inception. When Angela was pregnant, Judy tried to suffocate her. At one point Judy broke Angela’s nose. On another occasion, Judy broke Angela’s ribs. For the past fourteen (14) years, Judy has been threatening Angela and Delilah. Police has been involved in these incidents but neither Angela nor her daughter have even been protected from Judy. Angela and Delilah have been living with Judy’s threats for many years.

4. Judy is currently on probation for domestic disturbance until June 2021. Judy was charged with domestic violence against Delilah's stepsister and Delilah's stepmother in the State of Montana. He never stopped threatening Angela or his daughter Delilah.

5. The Saint Louis County Family Court was advised that Judy was previously physically violent with Angela, Delilah, Judy's current wife and Delilah's stepsister. The Court did not protect Angela and Delilah. In fact, Judge Zellweger placed Delilah in Judy's custody and refused to hear evidence pertaining to Judy's violence. Fearing for her life and her daughter's life, Angela purchased a Black Taurus G2G firearm last year.

6. On March 6, 2021, a warrant for Angela's arrest was issued and Angela was charged with the Class D Felony for tampering with a judicial officer in violation of section 575.095, RSMo 2016.

7. Angela was arrested at her home and incarcerated on March 8, 2021. At the time of her arrest, Angela had with her a lawfully purchased a Black Taurus G2G firearm with nine (9) bullets in the magazine. The firearm was brand new, and it was never fired or used by anyone.

8. When Angela was arrested on March 8, 2021, one of the arresting officers seized the firearm which was in Angela's bag and told Angela that her firearm "would be a great new addition to his collection." It is Angela's understanding that the arresting authorities have custody of her Black Taurus G2G currently. At this point Angela and Delilah have no protection from Judy.

9. At the time of the arrest, Angela had one (1) gram of marihuana in her bag. Angela uses marihuana for medical purposes while she is at home. The prescription is available for the Court's in camera review.

10. Angela was released on bond on March 23, 2021. Angela's Black Taurus G2G was not returned to her. The weapon remains in the custody of Saint Louis County arresting authorities.

11. Since her release, Angela resumed her employment and has been working every day. She is, however, is afraid for her life and safety of her daughter.

12. At the March 23, 2021 bail hearing, Assistant Prosecuting Attorney, informed the Court that Angela has been behind in her rent payments. This statement to the Court was not true. The Assistant Prosecuting Attorney also informed the Court that there were squatters living in Angela's apartment. This statement to the Court was not true.

13. The Assistant Prosecuting Attorney has informed the Court that Angela is being evicted. The notice of eviction was served on Angela on March 23, 2021 when she was released from jail. The notice of eviction does not provide for the reasons for her eviction. Angela has lived in the same apartment for the past five (5) years and she never had any problems with her landlord. If the eviction does take place, Angela has secured alternative housing.

ARGUMENT

Angela Freiner requests this Court to deny government's Motion for Bond Reconsideration. Mo. S. Ct. R. 33.01(d) dictates that a "defendant charged with a bailable offense shall be entitled to be released from custody pending trial or other stage of criminal proceedings," unless it can be shown by "clear and convincing evidence that no combination of non-monetary conditions shall secure the safety of the community or other person, including but not limited to the crime victims and witnesses." In its Motion, the prosecution alleges that "the state has been informed of further evidence highlighting the dangerousness of the defendant to the crime victim." Angela poses no danger to the complaining witness or the community. Angela's gun is in the state's custody. The only reason Angela lawfully possessed the gun was for her and her daughter's protection after the state failed to protect Angela and her daughter on several occasions from Judy who is a convicted domestic violence offender.

RSMo 573.030.1 (1) prohibits a person from carrying a concealed knife, a firearm, a blackjack, or any other weapon readily capable of lethal use into any area where firearms are restricted under RSMo 571.107. Angela was arrested when she was at her home. Angela was not in the area where firearms were restricted. Further, Angela's firearm was never used and was not capable of lethal use at the time of her arrest. Further, RSMo 573.030.3 states that 571.030.1 does not apply when the actor is

transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible.

Currently, Angela has no access to a firearm. Angela will not possess a firearm and has no plans to secure a firearm while she is on bail. The Court can include this as a condition of Angela's bail terms to assure that she does not pose danger to the complaining witness or to the community. Preserving Angela's right to remain free will assure Angela's ability to remain with her family, to take care of her health, and to earn income to pay her family expenses.

Missouri law provides that "[a]ny person charged with a bailable offense, at his or her appearance before an associate circuit judge or judge, may be ordered released pending trial, appeal, or other stage of the proceedings against him on his personal recognizance, unless the associate circuit judge or judge determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required." RSMo §544.455. On March 23, 2021, the Court found that Angela should be released on her own recognizance consistent with Mo. S. Ct. R. 33 and that she will appear at her trial. Rule 33.01 (a), (d). The prosecution has not offered any new evidence pertaining to the dangerousness of Angela to the complaining witness.

The Eighth Amendment to United States Constitution, which is applicable to the states through the Fourteenth Amendment, bars the imposition of excessive bail, as does the Missouri Constitution, each providing that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." United States Constitution, Amend. VIII; Missouri Constitution, Article I, Section 21. The United States Supreme Court has said that bail is "excessive" when it is "set at a figure higher than an amount reasonably calculated to fulfill" the purpose of assuring the presence of the accused at future proceedings. *Stack v. Boyle*, 342 U.S. 1, 5 (1951). The Court further recognized that "[u]nless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning." *Id.* at 4. The state's request for seventy-five-thousand-dollar (\$75,000.00) cash only bond serves as a request for mandatory detention.

It violates Angela's right to being released pending trial and to equal protection rights as guaranteed by the Fifth, Eighth, and the Fourteenth Amendments to the United States Constitution and by Art. 1, section 2, 10, 20 and 21 of the Missouri Constitution.

WHEREFORE, Angela Freiner prays that this Court deny the state's Motion for Bond Reconsideration and continue her release on her own recognizance and grant other and further relief as the Court deems just under the circumstances therein.

/s/ Evita Tolu
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was emailed to the Prosecuting Attorney for Saint Louis County Circuit Court, Missouri, through the operation of Court's electronic filing system.

/s/ Evita Tolu