

STATE OF LOUISIANA

NO. 24-K-578

VERSUS

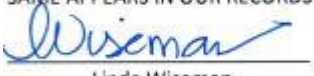
FIFTH CIRCUIT

DYLAN ZIMMERMAN

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS



Linda Wiseman
First Deputy, Clerk of Court

December 20, 2024

Linda Wiseman
First Deputy Clerk

IN RE STATE OF LOUISIANA

APPLYING FOR SUPERVISORY WRIT FROM THE FORTIETH JUDICIAL DISTRICT COURT,
PARISH OF ST JOHN THE BAPTIST, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE KIRK A.
VAUGHN, DIVISION "A", NUMBER 23-439

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Timothy S. Marcel

WRIT GRANTED

Relator, the State of Louisiana, seeks review of the trial court's granting of bond on a detainer placed on an individual supervised pursuant to the Interstate Compact for Adult Offender Supervision (at times "ICAOS"). For the reasons that follow, we grant relator's writ application.

In October 2023, defendant, Dylan Zimmerman, was arrested in St. John the Baptist Parish, for possession with intent to distribute fentanyl. At the time of his arrest, defendant was charged with five felony counts in a bill of information also filed in St. John the Baptist Parish arising from defendant's arrests in December 2022. Additionally, defendant was on probation for a felony conviction in the state of Arizona. Supervision of defendant's Arizona probation was transferred to the state of Louisiana in November 2021 under the ICAOS.¹ Officer Thomas Perez of the Louisiana Department of Public Safety and Corrections was assigned defendant's Arizona probation supervision.

Officer Perez placed a detainer hold on defendant following the October 2023 arrest for violating conditions of his Arizona probation. On August 27, 2024, defendant filed a Motion for Bail Pursuant to La. C.Cr.P. art. 899(C) in the 40th Judicial District Court. The trial court issued an *ex parte* order fixing bail on the detainer at one-thousand five hundred dollars (\$1,500.00) and scheduled a hearing for October 16, 2024. Based on the trial court's *ex parte* order, defendant was released from custody by the St. John the Baptist Parish Sheriff's Office on an unsecured personal surety. The October 16, 2024, hearing was continued to

¹ La. R.S. 15:574.31 *et seq.*

November 14, 2024. Between October 16 and November 14, defendant appeared before another division of the 40th JDC for pre-trial criminal proceedings related to charges from his December 2022 arrests. On that day, in court, defendant was taken back into custody by Officer Perez for violating probation.

The trial court conducted a probation bond hearing on November 14, 2024.² Officer Perez testified that he began supervising defendant under the ICAOS at the end of 2021.³ Following defendant's arrest in October 2023, Officer Perez submitted a "Compact Action Request" to notify Arizona that defendant had been detained based on his arrest in Louisiana on October 11, 2023.⁴ In addition, admitted into evidence as State Exhibit 3 was "Progress Report" prepared by Officer Perez and transmitted to Arizona in October 2023, which reported defendant's three arrests in St. John the Baptist Parish. In the "Compact Action Request", Officer Perez sought direction from Arizona regarding holding defendant and whether Arizona wished to "retake" defendant. Arizona responded by stating that defendant was not available for retaking under Rule 5.101-1 due to the pending felony charges in Louisiana, but requested updates on defendant's criminal cases in St. John the Baptist Parish.⁵ Based on the evidence presented at the hearing, the trial court reinstated defendant's detainer bond.

Defendant's Arizona probation is supervised by the Louisiana Department of Public Safety and Corrections pursuant to the ICAOS, to which Louisiana is a compacting state.⁶ Administration of the ICAOS is vested in the Interstate Commission for Adult Offender Supervision.⁷ The Commission possesses the authority to promulgate rules for supervision of probationers which have the binding force and effect of statutory law in the compact states.⁸ Conflicts between compacting states' laws and Commission rules are resolved in favor of rules of the Commission.⁹ Applicable herein are the following Commission rules for the ICAOS:

Rule 4.109-1 of the ICAOS provides: "an offender in violation of the terms and conditions of supervision may be taken into custody or continued in custody by the receiving state."

Rule 5.101-1(c) provides: "notwithstanding any other rule, if a supervised individual is charged with a subsequent felony or violent crime, the individual shall not be retaken or ordered to return until criminal charges have been dismissed, sentence has been satisfied, or the individual has been released to supervision for the subsequent offense, unless the sending and receiving states mutually agree to the retaking or return."

Rule 5.111 provides: "a supervised individual against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state."

² On the same date, the trial court also held a preliminary examination and found probable cause for defendant's October 2023 arrest.

³ State Exhibit 1.

⁴ State Exhibit 2.

⁵ State Exhibit 4.

⁶ La. R.S. 15:574.31, *et seq.*

⁷ La. R.S. 15:574.35.

⁸ *Id.*

⁹ La. R.S. 15:574.44.

In this case, defendant was taken into custody on a probation detainer following his arrest on felony charges in St. John the Baptist Parish. Officer Perez instituted procedures for the defendant's retaking by the state of Arizona after a disposition of his felony criminal charges in Louisiana. Under Rule 5.111 of the Interstate Commission for Adult Offender Supervision, setting of bond by the 40th JDC on defendant's probation detainer was proscribed. Accordingly, relator's writ is granted and the trial court's orders authorizing the release of defendant from the probation detainer are vacated.

Gretna, Louisiana, this 20th day of December, 2024.

TSM
SMC
JGG

