

CAUSE NO. **01-24-00641-CR**

IN THE COURT OF APPEALS
FOR THE FIRST SUPREME JUDICIAL DISTRICT
AT HOUSTON

FILED IN
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Clerk of The Court

EX PARTE

DREYVON ANDERSON-SANDERS

Appealed from the 179TH District Court
Of Harris County, Texas
Cause Number 1878077

APPELLANT'S BRIEF

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ORAL ARGUMENT NOT REQUESTED

IDENTITIES OF PARTIES AND COUNSEL

APPELLANT:	DREYVON ANDERSON-SANDERS
PRESIDING JUDGE:	HON. ANA MARTINEZ 179 TH DISTRICT COURT
PROSECUTOR(S):	MR. PETER BASILIOUS SBOT NO. 24120456 HARRIS COUNTY DISTRICT ATTORNEY'S OFFICE
HEARING COUNSEL:	MR. JUAN AGUIRRE SBOT NO. 24031692 ATTORNEY AT LAW

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TO THE HONORABLE FIRST COURT OF APPEALS:

NOW COMES, DREYVON ANDERSON-SANDERS, Appellant in the
above entitled and numbered cause, files this Appellant's Brief, and would
respectfully show the following:

STATEMENT OF THE CASE

This is an appeal from the Trial Court's denial of bail on the State's motion under Article 11b. Appellant subsequently filed a writ of habeas corpus seeking to have bail reinstated or reissued. (CLRK. REC. – 9). Appellant timely filed a NOTICE OF APPEAL. (CLRK. REC. – 20). The Notice was accepted, and the case was given the above referenced appellate cause number.

STATEMENT OF THE FACTS

A hearing was held on April 2, 2024, regarding the State's motion to deny bail under Article 11b. The State alleged that appellant had violated the condition of his bond related to the electronic monitoring device imposed during his February 27, 2024, appearance. (RR. – 5). Specifically, it was alleged that on March 5th, 6th, 10th, and the 11th of 2024 appellant failed to charge his device and could not be located. Due to this alleged failure on the part of appellant, the State averred that Harris County pretrial services could not monitor his whereabouts. (RR. – 4-5).

At the conclusion of the hearing, the court found that appellant had been contacted by pretrial services regarding the GPS alerts but had failed to return those calls. (RR. – 52). Further, the court found that it was not able to supervise appellant at this time due to his violation of “a lawful condition of his bond that is related to the safety of the victim ... and the community.” (RR. – 53). Therefore, the court granted the State's motion to deny bail. Id.

STATEMENT REGARDING ORAL ARGUMENT

Appellant does not request oral argument on the basis that the facts and the legal arguments are adequately presented in this brief and in the record. Moreover, the decisional process would not be significantly aided by oral argument. However, should the State of Texas or the Court request oral argument, Appellant requests the opportunity to participate in oral argument.

ISSUES PRESENTED

ISSUES FOR REVIEW

The trial court erred in denying appellant reasonable bail under Article 11b.

SUMMARY OF THE ARGUMENT

The trial court erred in denying appellant reasonable bail under Article 11b. Specifically, there was no evidence offered demonstrating that appellant presented a danger during the unmonitored periods, or at any other point. Further, the appellant testified and expressed difficulties with keeping the device charged while at work, as well as fervently assuring the court that no further violations would occur. (RR. – 33-38). Based on the testimony of the appellant as well as that offered by the State, it was clear to the court that the safety of any alleged complainants and/or the community was not threatened at any point by this appellant. Therefore, appellant asserts that he is entitled to a pretrial release bond.

ARGUMENT AND AUTHORITIES

ISSUE FOR REVIEW

The trial court erred in denying appellant reasonable bail under Article 11b.

Reasonable Bail

Before conviction, every citizen accused of a criminal offense has a "strong interest in liberty." *United States v. Salerno*, 481 U.S. 739, 750 (1987). Thus, the Eighth Amendment to the United States Constitution provides that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII; *see also Schilb v. Kuebel*, 404 U.S. 357, 365 (1971). The Texas Constitution also guarantees that "[a]ll prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident." Tex. Const. art. I, § 11; *see also* Tex. Const. art. I, § 13; Tex. Code Crim. Proc. art. 1.07. "As a general rule, bail may not be denied." *Criner v. State*, 878 S.W.2d 162, 163 (Tex. Crim. App. 1994).

However, a defendant's right to pretrial bail may be subordinated to the greater needs of society. *Salerno*, 481 U.S. at 750-51; *see also Ex parte Beard*, 92 S.W.3d 566, 573 (Tex. App.-Austin 2002, pet. ref'd). In balancing the liberty interest of a defendant and the safety interest of society, the Texas Legislature has adopted rules and guidelines for determining when a defendant should obtain pretrial release

through the posting of adequate bail. See Tex. Code Crim. Proc. arts. 17.01, 17.15.

In exercising its discretion in setting the dollar amount of bail and any conditions of bail, a trial court must consider, among other factors, the "future safety of the victim of the alleged offense[s] and the community." See Tex. Code Crim. Proc. art. 17.15(5); see also Tex. Code Crim. Proc. art. 17.40; *Golden v. State*, 288 S.W.3d 516, 518 (Tex. App.- Houston [1st Dist.] 2009, pet. ref'd). In fact, the Texas Constitution authorizes a trial court to deny bail pending trial when a defendant violates a condition of release on bond related to the safety of the complainant of the alleged offenses or to the safety of the community. Tex. Const. art. I, § 11b; *see also Ex parte McIntyre*, 558 S.W.3d 295, 299 (Tex. App.-Fort Worth 2018, pet. ref'd).

Standard of Review

A trial court's ruling on a pretrial application for writ of habeas corpus is reviewed for an abuse of discretion. *Kniatt v. State*, 206 S.W.3d 657, 664 (Tex. Crim. App. 2006). A trial court abuses its discretion if it acts without reference to any guiding rules or principles. *Ex parte Hunt*, 138 S.W.3d 503, 505 (Tex. App.-Fort Worth 2004, pet. ref'd). A reviewing court will not disturb a decision of the trial court if that decision is within the zone of reasonable disagreement, and views facts in the light most favorable to the trial court's ruling. *Ex parte Tata*, 358 S.W.3d 392, 397 (Tex. App.-Houston [1st Dist.] 2011, pet. dismiss'd); *Ex parte McIntyre*, 558 S.W.3d at 299.

Analysis

The trial court erred in denying appellant reasonable bail under Article 11b. Specifically, there was no evidence offered demonstrating that appellant presented a danger during the unmonitored periods, or at any other point. Further, the appellant testified and expressed difficulties with keeping the device charged while at work, as well as fervently assuring the court that no further violations would occur. (RR. – 33-38). Based on the testimony of the appellant as well as that offered by the State, it was clear to the court that the safety of any alleged complainants and/or the community was not threatened at any point by this appellant. Therefore, appellant asserts that he is entitled to a pretrial release bond.

ACCORDINGLY, this Court should SUSTAIN Appellant's ISSUE FOR REVIEW; VACATE the Trial Court's JUDGMENT; and REMAND the cause to the Trial Court below for a NEW TRIAL.

CONCLUSION AND PRAYER

For the foregoing reasons, the Appellant prays that this Honorable Court SUSTAIN Appellant's ISSUES FOR REVIEW; VACATE the Trial Court's JUDGMENT; and REMAND the cause to the Trial Court below for a NEW TRIAL.

Appellant further prays for all relief to which he may be entitled.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that on the day of SEPTEMBER 30, 2024, a true and correct copy of the above and foregoing Appellant's Brief was served on the HARRIS County District Attorney's Office, through the e-file service system.



TOM ABBATE

CERTIFICATE OF COMPLIANCE

This is to certify that the brief filed in case numbers **01-24-00641-CR** complies with requirement of Tex. R. App. P. Rule 9.4(i)(3). According to the computer program used to prepare the document, the entire brief has the following number words: 1,633 including footnotes.



TOM ABBATE

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