

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

BRITTANY KNIGHT;

Petitioner,

v.

Case No.: 4:17cv464

STATE OF FLORIDA; SHERIFF
FOR LEON COUNTY, FLORIDA;

Respondents.

/

PETITION FOR WRIT OF HABEAS CORPUS
(Pretrial Detention)

Pursuant to 28 U.S.C. § 2241, Petitioner Brittany Knight (“Knight”) petitions this Court for a writ of habeas corpus to remedy her and each other similarly situated inmate’s pretrial detention in the county jail in Leon County, Florida, in violation of the U.S. Constitution. In support, Knight states as follows:

INTRODUCTION

1. All people are presumed innocent until convicted. Yet, an alarming number of criminal defendants remain jailed until trial because they cannot afford the monetary bail set in their case. The bail system in Leon County has and continues to cause the unlawful detention of hundreds of people at any one time solely based on their poor economic status.

2. The unaffordable monetary bail amounts to de facto detention. Yet, the government routinely has no need for pretrial detention and has failed to carry its burden of establishing through clear and convincing proof that a person's pretrial detention furthers any compelling governmental interest. Instead, through the unaffordable monetary bail, the government skirts the constitutionally required necessity and procedures for pretrial detention.

3. Knight brings this case on behalf of herself and other similarly situated pretrial inmates in Leon County and asserts class claims under the Fourteenth Amendment to the U.S. Constitution to ensure pretrial detention becomes the "carefully limited exception."

JURISDICTION & VENUE

4. The Petitioner brings this action pursuant to 28 U.S.C. § 2241(c)(3) for relief from detention in "violation of the Constitution." Knight and other putative class members are detained in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution.

5. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), and the Suspension Clause of Article I of the U.S. Constitution.

6. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §2241(d) because the Petitioner and all other class members are in custody in this judicial district and venue. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to these claims occurred in this district.

PARTIES

7. Petitioner Brittany Knight is detained in the jail for Leon County, Florida. She has been detained there awaiting trial since June 17, 2016. The state court has set her case for trial to commence on November 6, 2017.

8. Respondent Sheriff of Leon County, Florida, currently has immediate custody over Knight and all other class members.

9. Respondent State of Florida, through the Florida Attorney General and the State Attorney for Florida's Second Judicial Circuit, has caused Knight and each other class member to be detained pretrial in violation of the U.S. Constitution.

10. Knight refers to the Respondents collectively as the "government."

FACTS

11. On June 17, 2016, Knight was arrested for a crime and booked into the county jail for Leon County, Florida.

12. Initially, the state court set her monetary bail at \$500,000.

13. On August 11, 2016, the state court reduced the monetary bail to \$250,000. It further conditioned pretrial release on refraining contact with the victim's mother, submitting to weekly tests for consumption of drugs, and no contact with children.

14. Knight cannot afford the current monetary bail.

15. Knight represented to the state court she could not afford the monetary bail. *See* Second Mot. to Modify Bail, ¶ 11, Appendix (ECF 1-4) at 33. She requested a reduction to an affordable monetary bail. *Id.*

16. Knight has limited financial resources. *See* Knight's Aff., ¶ 4, Appendix (ECF 1-4) at 38.

(a) Before she was arrested, she earned \$9.00/hour and worked paycheck to paycheck with all of her income going to current expenses. She had no other sources of income. She no longer has any income.

(b) Knight has no savings, real property, retirement accounts, stocks, bonds, trust funds, certificate of deposits, or investments. Knight owns a 1995 Ford Mustang worth about \$2,000. She does not own a boat. She has no significant assets.

(c) Knight owns some clothing, personal effects, and other personal property valued at less than a few thousand dollars.

(d) The court appointed the public defender to represent Knight. The public defender continues to represent Knight.

(e) No close friend, family member, or any other person has pledged assets to secure Knight's pretrial release.

17. Because Knight cannot afford the current monetary bail, Knight is currently detained by the Sheriff for Leon County, Florida, in the Leon County Jail. Knight has been continuously detained pretrial since her arrest.

18. The imposition of an unaffordable monetary bail constitutes pretrial detention.

19. Pretrial detention constitutes a significant deprivation of liberty. Knight and all other pretrial detainees have a fundamental interest in pretrial liberty.

20. Knight would satisfy the monetary bail, if she could afford it.

21. The government never sought pretrial detention by filing a pretrial detention motion or signaled an intent to do so. *See Fla.R.Civ.P. 3.132; § 907.041(4), Fla. Stat.*

22. With respect to Knight, the government has no need for pretrial detention. Less-restrictive alternatives to pretrial detention or additional conditions of pretrial release in conjunction with a reduced monetary bail would reasonably achieve the government's legitimate interests.

23. With respect to Knight, the government failed to establish any need by clear and convincing proof at a constitutionally adequate hearing or one pursuant to Fla.R.Civ.P. 3.132 and § 907.041(4), Fla. Stat.

24. With respect to Knight, the state court neither considered nor found a need for pretrial detention and that no less-restrictive alternatives to pretrial detention or additional conditions of pretrial release in conjunction with a reduced monetary bail would reasonably achieve the government's legitimate interests.

25. With respect to Knight, the state court did not find the government established any need by clear and convincing proof at a constitutionally adequate hearing or one pursuant to Fla.R.Civ.P. 3.132 and § 907.041(4), Fla. Stat.

26. Knight exhausted all available state remedies.

(a) She presented her claim that \$250,000 was excessive bail (Count 3) to the Florida First District Court of Appeal and then to the Florida Supreme Court. *See Knight's Sept. 2016 Habeas Pet., No. 1D16-4322 (Fla. 1st*

DCA), attached and incorporated as Exhibit 1-1; Knight's Jurisdiction Br., No. SC17-715 (Fla.), attached and incorporated as Exhibit 1-2. These state courts denied Knight relief. *Knight v. State*, 213 So. 3d 1019 (Fla. 1st DCA 2017), *reh'g denied* (Apr. 4, 2017), *review denied*, No. SC17-715, 2017 WL 2569936 (Fla. June 14, 2017).

(b) She presented the remaining claims to the Florida First District Court of Appeal. *See* Knight's May 2017 Habeas Pet., No. 1D17-1832, attached and incorporated as Exhibit 1-3; Appendix to Knight's May 2017 Habeas Pet., attached and incorporated as Exhibit 1-4. It denied Knight relief. *Knight v. State*, No. 1D17-1832, 2017 WL 4341369 (Fla. 1st DCA Oct. 2, 2017).

(c) The Florida Supreme Court lacks jurisdiction to review the Florida First District's ruling because it contains no discussion "expressly constru[ing]" the constitution, Fla.R.App.P. 9.030(a)(2)(A)(ii). *Gandy v. State*, 846 So. 2d 1141, 1144 (Fla. 2003). Because further review is unavailable, Knight exhausted her claims.

27. Knight and other putative class members have no adequate remedy at law for the denial of the fundamental constitutional right to a non-excessive bail and pretrial liberty.

28. Absent intervention by this Court, Knight and other putative class members will continue to be unconstitutionally deprived of their liberty and detained pretrial.

CLASS ACTION ALLEGATIONS

29. Knight brings this action on behalf of herself and all others similarly situated, pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

30. In Leon County, Florida, the government rarely seeks pretrial detention by filing a pretrial detention motion or signals an intent to do so. *See* Fla.R.Civ.P. 3.132; § 907.041(4), Fla. Stat.

31. Instead, the government regularly detains inmates pretrial on unaffordable bail when it has no need for pretrial detention. Less-restrictive alternatives to pretrial detention or additional conditions of pretrial release in conjunction with a reduced monetary bail would reasonably achieve the government's legitimate interests.

32. Unless the state court orders pretrial detention pursuant to Fla.R.Civ.P. 3.132 and § 907.041(4), Fla. Stat., it neither considers nor finds:

(a) There is a need for pretrial detention and that no less-restrictive alternatives to pretrial detention or additional conditions of pretrial release in conjunction with a reduced monetary bail would reasonably achieve the government's legitimate interests.

(b) The government established a need for pretrial detention by clear and convincing proof at a constitutionally adequate hearing or one pursuant to Fla.R.Civ.P. 3.132 and § 907.041(4), Fla. Stat.

33. These pretrial inmates eligible for release are regularly detained pretrial for months without constitutionally required necessity and procedures for pretrial detention.

34. Knight seeks to represent a class defined as follows:

All current and future (a) Florida residents (b) detained awaiting trial (c) in the county jail for Leon County, Florida, (d) who are eligible for pretrial release upon satisfaction of monetary bail, (e) but they cannot afford it.

35. The proposed class is so numerous and so fluid that joinder of all members is impracticable and uneconomical. Several thousand persons are admitted to the Jail annually. The identity of inmates held pretrial on an unaffordable bail changes daily. In July 2017, the average daily Jail pretrial inmate population was over 600. *See Florida Department of Corrections, County Detention Facilities Average Inmate Population (July 2017) at 3 (pdf p. 5),*

available at <http://www.dc.state.fl.us/pub/jails/>, attached and incorporated as Ex. 1-

5. Roughly half of the pretrial inmate population (~300) has been admitted to bail and is eligible for pretrial release upon satisfying a monetary bail.

36. Questions of law are common to the class members. The same policies and practices apply to all class members. Questions common to all class members predominate and include the following most important questions:

(1) Whether an unaffordable bail constitutes pretrial detention? (2) Whether a monetary bail that results in pretrial detention must be narrowly tailored to the government's compelling interests? (3) Whether a monetary bail that results in pretrial detention must have no less-restrictive alternative? (4) Whether the government bears the burden to establish the need for a monetary bail that results in pretrial detention by clear and convincing evidence?

37. Questions of fact are common to the class members. Each class member is held pretrial on an unaffordable bail.

38. Knight's claims are typical of the claims of the members of the class. Knight has been deprived of liberty in the same way, for the same reason, and to the same extent as others in the class. They are each detained because they cannot afford the monetary bail. Her claims raise questions of fact and law common to the class. Knight seeks relief to end the unconstitutional practices applicable and

desirous of all in the class. The answer to whether the government violates Knight's constitutional rights will determine the claims for every other class member.

39. Knight will fairly and adequately protect the interests of the class. Knight has no interest that is now or may be potentially antagonistic to the interests of the class. Knight understands the duties and responsibilities of serving as the class representative. Knight is represented by attorneys employed by or working in cooperation with the ACLU Foundation of Florida. They have extensive experience in class action cases involving federal civil rights claims.

40. The government has acted or refused to act on grounds generally applicable to the class, thereby making class-wide relief appropriate.

41. Pretrial detention is by nature temporary, and it is most unlikely that any given individual could have his constitutional claim decided on appeal before he is either released or convicted.

42. A class action is a superior means and the only practicable means to challenge the government's practices.

COUNT 1: SUBSTANTIVE DUE PROCESS & EQUAL PROTECTION
(Class Claim)

43. Petitioner realleges and incorporates by reference the foregoing allegations.

44. The Fourteenth Amendment to the U.S. Constitution prohibits depriving a person of liberty by detaining a person pretrial on an unaffordable monetary bail absent a need for pretrial detention and that no less-restrictive alternatives to pretrial detention or additional conditions of pretrial release in conjunction with a reduced monetary bail would reasonably achieve the government's legitimate interests.

45. An unaffordable bail is not narrowly tailored to achieve the government's interest in securing an accused's appearance in court or public safety.

46. Monetary bail cannot serve as motivation for anything until it is actually posted and an unaffordable monetary bail, by definition, will never be posted.

47. Several less-restrictive alternatives to pretrial detention through an unaffordable bail are available to reasonably assure the government's interests. The government's legitimate interest can be achieved by (1) reducing the monetary

bail to an affordable amount, (2) permitting an accused to satisfy any monetary bail through an unsecured appearance bond, Fla.R.Crim.P. 3.131(b)(1)(B), (3) restricting travel, association, or residence, (4) imposing reporting, curfews, drug testing, or electronic monitoring in extreme cases, or a combination of these measures. The District of Columbia, New Jersey, the Northern District of Florida, and other jurisdictions have all successfully employed these alternatives to an unaffordable bail.

48. Detention resulting from an unaffordable monetary bail when the government has no need for pretrial detention violates the U.S. Constitution. The government detains Knight and each other class member in this fashion.

COUNT 2: PROCEDURAL DUE PROCESS
(Class Claim)

49. Petitioner realleges and incorporates by reference the foregoing allegations.

50. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution requires the government to establish and the court to find a need for an unaffordable monetary bail that results in pretrial detention with clear and convincing proof at a hearing that substantially complies with the Bail Reform Act of 1984, 18 U.S.C. § 3142.

51. Detention resulting from an unaffordable monetary bail without complying with this procedure to guard against mistaken or unjustified deprivation of liberty violates the U.S. Constitution. The government detains Knight and each other class member in this fashion.

COUNT 3: EXCESSIVE BAIL—TOTAL AMOUNT
(Individual Claim)

52. Petitioner realleges and incorporates by reference the foregoing allegations.

53. The Eighth Amendment to the U.S. Constitution prohibits excessive bail. Monetary bail is excessive when it is “higher than an amount reasonably calculated to fulfill” the government’s legitimate interests. *Stack v. Boyle*, 342 U.S. 1, 5 (1951).

54. Knight’s \$250,000 monetary bail is excessive. It exceeds an amount reasonably calculated to fulfill the government’s legitimate interests.

55. Knight presents a de minimis risk that she will flee or fail to appear at subsequent criminal proceedings or trial. *See Knight’s Aff.* ¶ 3, Appendix (ECF 1-4) at 37.

(a) Knight has significant ties to Leon County, Florida.

(1) Knight has resided in Leon County for nearly 30 years—since she was five.

(2) Knight has three children who reside in Leon County, Florida. Before her arrest, Knight and her former husband shared custody of the children.

(3) Knight's parents live in Cairo, Georgia, which is about one hour away from Leon County. However, they previously lived in Leon County from 1997-2014 and her father continues to work in Leon County as a minister and her mother continues to work in Leon County as a dental office billing assistance.

(4) Knight has been employed in Leon County for nearly her entire adult life.

(b) Knight has never willfully failed to appear for a criminal proceeding or trial.

(c) Knight has never fled to avoid prosecution.

(d) Knight was not indicted until over one year after the charged death. Knight did not flee, but remained in the community during this time. No

public safety concern propelled the government to move faster to indict and arrest Knight or otherwise detain her.

56. Knight was not on supervised or pretrial release at the time of the arrest.

57. Knight was indicted for one count of aggravated manslaughter of a child in violation of § 782.07(3), Fla. Stat.

58. Knight is not charged with a criminal offense in any other case.

59. Knight has never been convicted of a criminal offense.

60. Knight's monetary bail exceeds tenfold the bail amount proposed in the local bail schedule. *See Knight*, 213 So. 3d at 1021 n.*

61. Knight's detention conditioned on satisfaction of an excessive monetary bail violates the U.S. Constitution.

COUNT 4: EXCESSIVE BAIL—CONSIDERATION OF PUBLIC SAFETY
(Individual Claim)

62. Petitioner realleges and incorporates by reference the foregoing allegations.

63. The Eighth Amendment to the U.S. Constitution prohibits excessive bail. A monetary bail must be “designed to ensure” or achieve some government interest. *United States v. Salerno*, 481 U.S. 739, 754 (1987).

64. The state court imposed a \$250,000 monetary bail in consideration of public safety and Knight’s perceived dangerousness. On April 28, 2017, the state court heard Knight’s Second Motion to Modify Bail. The government argued that the \$250,000 monetary bail was appropriate, in part, to ensure the safety of the community. Tr. (Apr. 28, 2017), Appendix (ECF 1-4) at 47. The trial court found that Knight “does pose a danger to the community.” *Id.*, at 52. And in consideration of the perceived danger to the community, in part, the trial court found that the \$250,000 monetary bail was reasonable. *Id.*

65. Monetary bail in Florida does not constitutionally further the government’s interest in public safety. So long as the accused does not flee, no financial consequence results from his committing a future crime while on pretrial release. *See* § 903.28, Fla. Stat. (prescribing that a forfeited bond shall be remitted and judgment satisfied upon the apprehension of the accused). To the extent monetary bail is set in consideration of public safety, it is per se excessive.

66. Knight’s detention conditioned on satisfaction of a monetary bail set in consideration of public safety is excessive and violates the U.S. Constitution.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests the following relief:

A. Certify of a class pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure, represented by Knight as class representative and her counsel as class counsel.

B. Declare the following:

(1) An unaffordable monetary bail constitutes pretrial detention.

(2) The Fourteenth Amendment of the U.S. Constitution mandates that an accused's pretrial release may only be conditioned on an unaffordable bail when the government has a need for pretrial detention and that no less-restrictive alternatives to pretrial detention or additional conditions of pretrial release in conjunction with a reduced monetary bail would reasonably achieve the government's legitimate interests.

(3) The Fourteenth Amendment of the U.S. Constitution requires the government to establish and the court to find a need for an unaffordable monetary bail that results in pretrial detention with clear and convincing proof at a hearing that substantially complies with the Bail Reform Act of 1984, 18 U.S.C. § 3142.

(4) The Eighth Amendment of the U.S. Constitution forbids imposing a monetary bail in consideration of public safety or the accused's perceived dangerousness.

C. (1) Order the government to release from pretrial custody Knight and each other class member, or, in the alternative,

(2) Order the government to release from pretrial custody Knight and each other class member who has (individually or through counsel)

(a) represented to the state court (at first appearance or by motion to modify bail) that the member cannot afford the imposed monetary bail and

(b) requested a reduction to an affordable monetary bail

unless within 30 days of this Court's order or 5 days¹ from the representation and request (whichever is later) a state court—after notice, a hearing, and in written order each in compliance with Fla.R.Crim.P. 3.132 and § 907.041(4), Fla. Stat.—determines anew the member's conditions of pretrial release,

¹ See Fla.R.Crim.P. 3.132.

including the amount of monetary bail, in compliance with this Court's declarations of law and after the state court makes the following findings:

(i) the highest monetary bail the pretrial defendant can afford;

(ii) whether the inmate can afford the ultimately imposed monetary bail; and

(iii) if the state court finds the inmate cannot afford the ultimately imposed monetary bail, then also

(I) whether there is a need for pretrial detention and that no less-restrictive alternatives to pretrial detention or additional conditions of pretrial release in conjunction with a reduced monetary bail would reasonably achieve the government's legitimate interests; and

(II) whether the government has established its need by clear and convincing proof at a constitutionally adequate hearing or one pursuant to Fla.R.Civ.P. 3.132 and § 907.041(4), Fla. Stat.

D. Conduct an evidentiary hearing for Knight and order the government to release her unless it establishes that \$250,000 is no higher than reasonable calculated to fulfill the government interests in appearance at future criminal proceedings (without consideration of any interest in public safety).

E. Retain jurisdiction of this matter to enforce the terms of the Court's orders.

F. Such further and different relief as is just and proper.

Respectfully Submitted,

s/Benjamin James Stevenson

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VERIFICATION

Pursuant to 28 U.S.C. § 2242 and the Rules Governing § 2254 Cases in the U.S. District Courts (adopted for all habeas corpus petitions by N.D. Fla. R. 5.7), I declare under penalty of perjury that the foregoing facts are true and correct.

Executed on October 9, 2017.

Brittany Knight
Brittany Knight