

Lane Myers
4583 N. Sugarbush PL
Tucson, Arizona 85749
Pro-Se

BEST COPY

FILED IN COURT

05/12/2025

GARY L. HARRISON

B. ENER

Deputy

Pima County Superior Court,
For the State of Arizona

State of Arizona,
Plaintiff

v.

Lane Myers, Defendant

Case No: CR 20251454-001

Judge Metcalf

Motion to Reexamine bail eligibility
pursuant to Rule 7.4(C)

Mr. Myers moves this court pursuant to Rule 7.4(c) to follow the Rules of Procedure, and clearly established case law to grant a bail eligibility reexamination hearing within 7 days. Failure to grant a hearing de novo will be a violation of Mr. Myers Due Process rights, and a continuing pattern of this courts inherent bias and prejudicial decisions against Mr. Myers. "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially" CJC Rule 2.2

Mr. Myers previous counsel filed a motion for ~~and~~ a bail reexamination, and this court blatantly disregarded clearly established case law, and the Rules of Procedure by failing to order a hearing de novo within 7 days. Mr. Myers concedes the previously filed motion was legal trash, however this court should have still granted the evidentiary hearing within 7 days.

Mr. Myers now files this legally correct Motion with the controlling case law to show this court exactly why an evidentiary hearing must be scheduled in 7 days or less. Failure to do so is not only

a violation of law, but also the Code of Judicial Conduct.

"Actual improprieties include violations of law, court rules, or provisions of this code" CJC Rule 1.2(5)

1. Statement of Facts

- Mr. Myers was arrested on an interim complaint on March 20th, 2025 for 3 counts of Aggravated Harassment.
- Mr. Myers was given an Initial Appearance at Pima Justice Court on March 20th, 2025 pursuant to Rule 4.2. Case number CR25-003692-FE
- The court found probable cause pursuant to Rule 4.2(a)(8)(A) that Mr. Myers committed a Felony while on Pretrial Release for a Felony.
- The court scheduled a bail eligibility hearing as required under Rule 7.2(b)4.
- The court held a bail eligibility hearing Mar 25-26, 2025. The court found proof evident pursuant to Rule 7.2(b)1(B) to hold Mr. Myers under rule 5.4(a).
- A supervening indictment was filed March 28th 2025, charging 2 counts of Aggravated Harassment, 1 count Stalking, and misdemeanors
- Case was transferred to Superior Court from Justice Court on March 28th, 2025 under case number CR 20251454.

- Mr. Myers was arraigned in Pima County Superior Court April 4th, 2024.

II. Argument

1. Standard of Review

The relevant standard of review for a bail eligibility reexamination hearing is de novo as defined in the controlling case law pursuant to *Mendez v Robertson*, 202 Ariz. 128.

"The relevant part of Rule 7.4 provides that
"any person remaining in custody may move for reexamination of the conditions of release whenever the persons case is transferred to a different court" *Mendez v. Robertson* 202 Ariz. 128, 42 P.3d 14 (Ct App 2002)

"It is axiomatic that, when a court is asked to reexamine release conditions, the review must be de novo. Thus, Rule 7.4(c) requires the respondent judge to "examine anew" the conditions. Moreover, both situations in which a court may "re-examine" a release order - a transfer to a new court or new information - appear in same sentence of rule, providing two instances in which the court may look at the order "anew". We do not believe the supreme court intended different standards of review to be applied to the two circumstances listed in this rule" *Id.*, 202 Ariz. 128 at 129, 130

"In *RE Maricopa County Juvenile Adon NO. J-96215*, 135 Ariz. 185, 659 P.2d 1330 (APP. 1983) also

implies that review is de novo. There, Division One of this court held that the transfer of juvenile to superior court for prosecution as adult is a transfer to a "different court." IO, 202 Ariz. 128 at 130

As this court can plainly see, the standard of review for bail reexamination is de novo. That means the court must give an evidentiary hearing where the State has to meet its burden all over again.

2. Relevant Rules of Procedure

The relevant Rules of Procedure pertaining to bail eligibility reexamination are as follows. This court needs to adhere to the plain language of the rule as it was reminded in *Dominquez v. Metcalf* 255 Ariz. 310, 531 P.3d 372 (Ct. App 2023) and stop trying to make up its own version of the rules.

"We begin with the language of the rule or statute, and, when the language is clear and unequivocal, it is determinative of the rule or statute's construction." See *State v. Brearcliffe*, Ariz 22, 525 P.3d 1085, 1091 (2023)

"Adherence to the meaning of plain language is the cornerstone of statutory and rule interpretation - thus our analysis must start with the language of the rule." *Brearcliffe*, Ariz 22, 525 P.3d at 1091
Dominquez v. Metcalf 255 Ariz. 310-312, 531 P.3d 372-374 (Ct. App 2023)

Once again this court needs to follow

clearly written rules and case law and set an evidentiary hearing in the next 7 days.

When someone is arrested for a felony on a complaint, while on pretrial release for a felony the relevant procedure is as follows.

- Defendant appears at Initial Appearance under 4.2(a) 8(A) where magistrate determines probable cause a felony on pretrial release for a felony
- Magistrate schedules initial no-bail hearing as required under Rule 7.2(b) 4 as soon as practicable, no later than 7 days after initial appearance.
- At the hearing if court finds proof evident or presumption great, defendant is set for preliminary hearing pursuant to Rule 5.4 (a)
- Preliminary hearing is waived if proof evident and State waives hearing, or a supervening indictment is filed in Superior Court.
- After transfer to Superior Court a defendant may request a bail eligibility reexamination hearing pursuant to Rule 7.4(c) 1.
- Rule 7.4(c) 1 -
On motion, court may reexamine bail eligibility if transferred to a different court. The court may hold an evidentiary hearing.

- Rule 7.4c(3) indicates - "the court must hold a hearing on the record as soon as practicable, but no later than 7 days after the motions filing."

As this court can plainly see, the initial bail eligibility hearing is only relevant to holding a defendant to appear before Superior Court. Once the case is transferred to a "different court", a defendant is eligible for a bail reexamination hearing on the court's order, or a motion by defendant. This court must now set an evidentiary hearing to reexamine bail eligibility. Failure to do so is a clear violation of the Rules of Procedure.

"Actual improprieties include violations of law, court rules, or provisions of this code" CJC Rule 1.2(5)

3. Due Process requires evidentiary hearing

When a defendant is held not bailable as a matter of right pursuant to Article 2 section 22 of Arizona Constitution, Due Process requires an evidentiary hearing anytime a defendant's eligibility for bail is examined. This has been settled in *Segura v Cunanan* in the Court of Appeals.

"Superior Court erred in denying defendant a hearing on the no bail if the State alleges that a defendant is not entitled to bail under Art 2, section 22, due process requires that the defendant receive a full hearing at which defendant may be represented by counsel, cross-examine witnesses, and present evidence." *Segura v Cunanan*, 219 Ariz 228, 23 196 P.3d 831 (Ct app. 2008)

As this court can see Due Process requires an evidentiary hearing to reexamine bail eligibility.

"The rules allow for a subsequent review by motion" whenever the persons case is transferred to a different court" Segura 219 Ariz. at 233

"Rule 7.4 was amended to read essentially as in the proposed rules, providing that a motion involving whether a defendant shall be held without bail shall be held on the record as soon as practicable but not later than 7 days after the filing of the motion" Segura 219 Ariz. 228 at 237

"In this case, we need not address every aspect of the Simpson decision because the only issue presented here is the right to a hearing to fully litigate the no-bail determination. To the extent Simpson holds that due process requires a hearing at which the defendant has the right to counsel and the right to cross-examine witnesses and offer evidence, we reaffirm its holding." Segura 219 Ariz. 228, at 240

Mr. Myers now demands his Due Process right to a de novo review to reexamine his bail eligibility as a matter of right. Due Process requires this to be an evidentiary hearing within 7 days. The 6th amendment, Federal Bail Reform Act, Rule 7.4(c)(1), Mendez v. Robertson, Segura v. Cananan, and Simpson v Owens all make this very clear.

III Conclusion

In conclusion, as this court can see beyond all reasonable doubt, Mr. Myers must be granted an evidentiary hearing within 7 days to de novo review his bail eligibility. The burden is shifted to the State to find proof, evident or presumption great of a felony on pretrial release for a felony.

Failure to do so will erode the public's trust in this court and be judicial misconduct.

"A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety"
CJE Rule 1.2

"A good faith error of fact or law does not violate this rule. However, a pattern of legal error or intentional disregard of the law may constitute misconduct"
CJE Rule 2.2(3)

4-29-25

Lane Myers
Pro Se