

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2012-006869-001 DT

06/15/2012

COMMISSIONER PATRICIA ANN STARR

CLERK OF THE COURT  
L. Talbo  
Deputy

STATE OF ARIZONA

JAY ROBERT RADEMACHER

v.

ROBERT FISCHER (001)

DWANE M CATES

FINANCIAL SERVICES-CCC

MINUTE ENTRY

A Grand Jury indicted Defendant for one count of Second Degree Murder; Defendant was arrested in California, waived extradition, and brought to Arizona. Bond is currently set at \$1,000,000.00 cash.

The Court has considered Defendant's Motion to Reduce Bond, the State's Response, Defendant's Supplement and Second Supplement to his Motion, and the two Supplemental Responses submitted by the State. The Court has also considered the argument of counsel, statements made by various interested parties at the hearing in this matter, and the report prepared by Pretrial Services.

Pursuant to A.R.S. § 13-3967(B), the Court must consider numerous factors when setting bail and conditions of release. Here, the Court has considered those factors that apply. First, the victim's sister, who spoke at the hearing, strongly opposes modification of the bond amount (as do other family members and friends of the victim, as evidenced by the letters submitted to the Court). Second, Defendant is charged with Second Degree Murder, and the State alleges that Defendant murdered the victim, and then attempted to cover up his involvement in the crime. Defendant claims that the victim committed suicide. Third, the Court has considered the weight of the evidence against Defendant. Both parties agree that this case will involve the presentation of circumstantial and scientific evidence, including DNA and gunshot residue evidence. Fourth, as evidence by the letters and statements presented to the Court, Defendant has strong ties in his

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community in California, longstanding employment as a family law attorney, and numerous individuals who attest to his character. Defendant also appears to have significant financial resources. Defendant has no significant ties to Arizona; his primary residence and law practice are in California. Defendant has no record of failures to appear, and may have had one misdemeanor arrest in the past, according to the State, but no convictions. The Court notes that Defendant was arrested for this offense in California, and waived extradition to Arizona.

Several factors support a high bond in this case: Defendant face a significant prison sentence if convicted at trial. Defendant's ties are to California, not Arizona. Defendant has substantial financial resources. The victim's next of kin opposes modification, as do other family members and friends who believe that Defendant is a flight risk. And finally, the State has alleged that Defendant committed this crime and then tried to escape responsibility by staging the victim's suicide.

Other factors mitigate against imposition of a high bond: Defendant has no prior criminal history, and is an attorney in good standing in California. Defendant presented the opinions of many friends and family members who attest to his good character, and who are of the opinion that he is not a flight risk, and will appear for all court appearances.

The bond currently in place is a cash bond. "[T]he fact that bail imposed was 'cash-only' can be considered when determining whether bail is excessive." *Costa v. Mackey, State of Arizona, Real Party in Interest*, 227 Ariz. 565, 569, ¶ 8, 261 P.3d 449, 453 (App. 2011), citing *Fragoso v. Fell*, 210 Ariz. 427, 431, ¶ 12, 434, ¶ 22, 111 P.3d at 1031, 1034 (111 P.3d 1027 (App. 2005)).

Considering all the relevant factors, the Court finds that the bond as currently set is unreasonably high. However, a substantial bond is warranted given the nature of the alleged crime, the circumstances of the offense, the views of the victim's next of kin, and the fact that Defendant's residence and ties to the community are not in Arizona.

Therefore,

IT IS ORDERED granting Defendant's Motion to Modify, to the following extent: Bond is set at \$500,000.00, which is a secured appearance bond and includes all applicable surcharges. If Defendant posts bond, he is required to reside in Arizona and provide the Court with proof of a current local address. If Defendant posts bond, he is also required to surrender his passport to the Court at his next court appearance.