

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-000150-24T6  
BEFORE: PART B  
JUDGES: HEIDI W. CURRIER  
JAMES R. PAGANELLI

STATE OF NEW JERSEY  
V  
SEAN M. HIGGINS

APPEAL FILED: 09/16/2024 BY: SEAN M. HIGGINS

ANSWER FILED: 10/17/2024 BY: STATE OF NEW JERSEY

SUBMITTED TO COURT: October 21, 2024

ORDER

THIS MATTER HAVING BEEN PRESENTED TO THE COURT PURSUANT TO RULE 2:9-13, AND IT APPEARING THAT DEFENDANT HAD SCORES OF 1 (FTA) AND 1 (NCA), AND     A RED FLAG OR X NO RED FLAG ON THE PUBLIC SAFETY ASSESSMENT (PSA),

IT IS ON THIS 21st DAY OF October, 2024, HEREBY ORDERED AS FOLLOWS:

Having duly considered in an expedited manner the parties' submissions, we **AFFIRM** the trial court's order for the pretrial detention of defendant, substantially for the following reason(s):

- There is substantial credible evidence in the record to support the trial court's finding by clear and convincing evidence that no amount of monetary bail, non-monetary conditions of pretrial release or combination of monetary bail and conditions would reasonably assure:

- defendant's appearance in court when required;
- the protection of the safety of any other person or the community;
- that defendant would not obstruct or attempt to obstruct the criminal justice process. N.J.S.A. 2A:162-18(a)(1).
- The trial court considered relevant and appropriate information in making its pretrial detention determination. N.J.S.A. 2A:162-20. That information included:
  - The nature and circumstances of the offense charged. N.J.S.A. 2A:162-20(a);
  - The weight of the evidence against defendant. N.J.S.A. 2A:162-20(b);
  - The history and characteristics of defendant. N.J.S.A. 2A:162-20(c);
  - The nature and seriousness of the danger to any other person or the community that would be posed by defendant's release. N.J.S.A. 2A:162-20(d);
  - The nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice process that would be posed by defendant's release. N.J.S.A. 2A:162-20(e); and
  - The pretrial services program's recommendation to X release or \_\_\_ not release. N.J.S.A. 2A:162-20(f).
  - The pretrial services program's recommendation to not release, N.J.S.A. 2A:162-20(f), and probable cause that the eligible defendant committed a Graves Act offense subject to N.J.S.A. 2A:162-20(f) for which the eligible defendant would be subject to a mandatory term of imprisonment.
- The trial court considered defendant's PSA scores. N.J.S.A. 2A:162-16(b)(2).
- The trial court's determination is supported by the PSA's indicator that defendant poses a pretrial risk of new violent criminal activity (NVCA), if released. N.J.S.A. 2A:162-16(b)(2).

- The trial court provided sufficient written findings of fact and adequate reasons for ordering defendant's pretrial detention. N.J.S.A. 2A:162-21(a)(1).
- The trial court's decision was not an abuse of discretion and it comported with applicable legal principles. State v. S.N., 231 N.J. 497 (2018).
- Defendant's contention that the State violated his or her due process rights by failing to call a witness to present live testimony at the pretrial detention hearing is without merit. State v. Ingram, 230 N.J. 190 (2017). The trial court acted within its discretion in declining to require the State to introduce live testimony at the pretrial detention hearing.
- The trial court's discovery order, which is challenged on this appeal, is consistent with the requirements of Rule 3:4-2(c)(2) and State v. Robinson, 229 N.J. 44 (2017).
- The record supports the trial court's finding of probable cause that defendant committed murder pursuant to N.J.S.A. 2C:11-3, or any crime subject to an ordinary or extended term of life imprisonment, and that defendant failed to overcome the presumption of pretrial detention that is triggered by that finding. N.J.S.A. 2A:162-18(a)(1); N.J.S.A. 2A:162-19(b).
- The order of detention does not rely solely on "a recommendation against release, based on the type of charge alone." State v. Mercedes, 233 N.J. 152, 171 (2018).
- Defendant's claims of procedural error by the trial court lack merit or, to the extent they have any merit, are inconsequential.
- Defendant's claims of evidentiary error by the trial court lack merit or, to the extent they have any merit, are inconsequential.
- Defendant's claims of error in the calculation of his or her risk assessment scores are unpersuasive. Even if such errors were proven and were corrected, any corresponding reduction of defendant's scores would be inconsequential in light of other evidence in the record that supports the trial court's ruling.
- The record supports the trial court's finding of probable cause that defendant committed the predicate offense and therefore we reject defendant's challenge to the existence of probable cause. N.J.S.A. 2A:162-19(e)(2).

The record supports the trial court's decision revoking release. The judge found by a preponderance of the evidence that defendant violated a restraining order or condition of release while on pretrial release, and the nature and severity of the violation, in addition to all other circumstances, clearly and convincingly establishes that detention is appropriate. See N.J.S.A. 2A:162-24; R. 3:26-2(d)(1); State v. White, 452 N.J. Super. 417, 430-31 (App. Div. 2017).

Other reasons or amplification of any of the reasons given above:

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FOR THE COURT:

*Heidi W. Currier*

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HEIDI W. CURRIER, P.J.A.D.

ENTERED: 10/21/2024

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