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IN THE
COURT OF APPEALS OF INDIANA

Alan Jones,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

May 25, 2022

Court of Appeals Case No.
21A-CR-2809

Appeal from the Shelby Circuit
Court

The Honorable Trent E. Meltzer,
Judge

Trial Court Cause No.
73C01-2106-F5-46

Bailey, Judge.

Case Summary

- [1] Alan Jones (“Jones”) challenges the trial court’s denial of his motion for reduction of bail. The only issue he raises on appeal is whether the trial court abused its discretion in so ruling.
- [2] We affirm.

Facts and Procedural History

- [3] On October 26, 2020, Jones was arrested and charged under Cause Number 73C01-2010-F6-437 (“Cause F6-437”) with one count of auto theft, as a Level 6 felony.¹ On October 27, 2020, Jones was released on his own recognizance.
- [4] On June 23, 2021, the State charged Jones with thirty-eight counts under a new cause number, i.e., Cause Number 73C01-2106-F5-46 (“Cause F5-46”). Specifically, the State charged Jones with one count of corrupt business influence, a Level 5 felony², and thirty-seven counts of theft as Level 6 felonies.³ The Level 6 felonies charged in Cause F5-46 all related to theft of motor vehicles or property valued between \$750 and \$50,000, and all were alleged to have occurred at various times between November 2016 and April 2021. The trial court held an initial hearing on June 25 and found that Jones “present[ed]

¹ Ind. Code § 35-43-4-2(a)(1)(B)(ii) (2020).

² I.C. § 35-45-6-2 (2021).

³ I.C. § 35-43-4-2(a)(1)(A), (B) (2021).

a substantial risk of flight or danger” to himself or others. App. at 31.

Therefore, the court set Jones’s “bond in the amount of \$200,000 surety or 10% cash.” *Id.*⁴

[5] On July 14, 2021, Jones filed a Motion to Reduce Bond. Following a hearing on Jones’s motion, the trial court denied it on August 18.

[6] On August 24, the State moved to amend the information to add counts 39 through 41, all three of which charged theft as Level 6 felonies.⁵ The court granted the motion to amend on August 27.

[7] On September 29, Jones filed another motion to reduce his bail bond. Following an October 28 hearing on that opposed motion, the trial court denied it. On November 1, Jones filed a Motion to Correct Error. On November 15, the trial court issued an order denying the motion to correct error and stating, in relevant part:

2. In the present case, the crimes alleged in Counts 2, 11, 12, 13, 14, 15, 16, 17, 18, 19, 28, 29, 35, 36, 37 and 38 occurred, in part, after Defendant was released from custody.⁶ The crimes alleged

⁴ On July 2, 2021, the State filed a motion to revoke Jones’s bond in Cause F6-437 because he had been charged in Cause F5-46 with committing the new crimes. The trial court set the State’s motion for a hearing but, on August 24, 2021, the State moved to dismiss Cause F6-437. The trial court dismissed that cause without prejudice on August 25, 2021. Thus, the bond in Cause F6-437 is not at issue in this appeal.

⁵ I.C. § 35-43-4-2(a)(1)(A), (B).

⁶ Jones was released from custody in Cause F6-437 on October 27, 2020. All of the counts specified in the first sentence of the trial court’s finding number two were alleged to have occurred during different periods of time that included post-October 27, 2020. App. at 12-17, 19-21.

in Counts 30, 31, 32, 33 and 34 occurred wholly while he was released from custody under 73C01-2010-F6-437.^[7]

3. With at least 20 distinct victims and crimes in the present case, Defendant faces a substantial penalty.

4. Defendant's plan if he is released is to live with his ex-wife Kristina Jones and her parents, at property that he was trespassed from [sic] in July of 2020 and arrested for trespassing at on April 16, 2021 (73D02-2104-CM-318). Ms. Jones is also mentioned several times in the probable cause affidavit in this case for her role at the business allegedly used to facilitate the crimes charged. Ms. Jones has appeared as the president of the company in at least two cases brought by alleged victims (73D01-2009-PL-28 and 73C01-2005-PL-16) and is a signatory on the company's lease agreement for the property where these crimes allegedly occurred (73C01-2107-CC-290).

5. The medical documentation submitted by Defendant indicate[s] that he may have 'minimal acute diverticulitis' and he testified that he has diarrhea. These are common issues, and the Shelby County Sheriff is required to provide appropriate medical care for individuals in his custody.

6. For the foregoing reasons, the Court finds that the defendant presents a substantial risk of flight and danger to the public.

App. at 70-71.

⁷ Counts 30-34 were all alleged to have occurred during different periods of time between January 2021 and April 23, 2021. *Id.* at 19-20.

[8] Jones now appeals.

Discussion and Decision

[9] Jones challenges the trial court's ruling on a motion to reduce his bail bond.

The amount of bail is within the sound discretion of the trial court and will be reversed only for an abuse of discretion. *DeWees v. State*, 180 N.E.3d 261, 264 (Ind. 2022). An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. *Id.* In determining whether the trial court has abused its discretion, we will not reweigh the evidence or judge the credibility of witnesses. *Hall v. State*, 166 N.E.3d 406, 412 (Ind. Ct. App. 2021). Moreover, we consider any conflicting evidence in favor of the trial court's ruling. *Doroszko v. State*, 154 N.E.3d 874, 876 (Ind. Ct. App. 2020), *trans. denied*.

[10] The Indiana Constitution prohibits excessive bail. Ind. Const. art. 1, § 16. Bail is excessive if it is set at an amount higher than that which is reasonably calculated to ensure the accused party's presence in court. *E.g., Johnson v. State*, 114 N.E.3d 908, 910 (Ind. Ct. App. 2018) (citing I.C. § 35-33-8-4(b)). The inability of the accused to procure the amount necessary is not a factor that, on its own, renders the amount unreasonable. *Id.* (citations omitted).

[11] The Indiana Code provides that, in setting and accepting an amount of bail, the court must consider the results of the Indiana pretrial risk assessment system, I.C. § 35-33-8-3.8, and

take into account all facts relevant to the risk of nonappearance, including:

- (1) the length and character of the defendant's residence in the community;
- (2) the defendant's employment status and history and the defendant's ability to give bail;
- (3) the defendant's family ties and relationships;
- (4) the defendant's character, reputation, habits, and mental condition;
- (5) the defendant's criminal or juvenile record, insofar as it demonstrates instability and a disdain for the court's authority to bring the defendant to trial;
- (6) the defendant's previous record in not responding to court appearances when required or with respect to flight to avoid criminal prosecution;
- (7) the nature and gravity of the offense and the potential penalty faced, insofar as these factors are relevant to the risk of nonappearance;
- (8) the source of funds or property to be used to post bail or to pay a premium, insofar as it affects the risk of nonappearance;
- (9) that the defendant is a foreign national who is unlawfully present in the United States under federal immigration law; and

(10) any other factors, including any evidence of instability and a disdain for authority, which might indicate that the defendant might not recognize and adhere to the authority of the court to bring the defendant to trial.

I.C. § 35-33-8-4(b).

- [12] Upon a showing of good cause, a defendant may be granted an alteration or revocation of bail. I.C. § 35-33-8-5(a). To obtain an alteration of bail, the defendant must present “additional evidence of substantial mitigating factors, based on the factors set forth in [I.C. § 35-33-8-]4(b)..., which reasonably suggests that the defendant recognizes the court’s authority to bring the defendant to trial.” I.C. § 35-33-8-5(c). However, while the court must consider the factors listed in I.C. § 35-33-8-4(b), it is not required to state its reasons for denying a motion to reduce or revoke bail. *Sneed v. State*, 946 N.E.2d 1255, 1259 (Ind. Ct. App. 2011).
- [13] Here, Jones is being held on a \$200,000 bail bond with a ten percent cash option; thus, Jones can secure his release with a \$20,000 payment. Application of the statutory factors reveals that the selected amount is not excessive but, rather, designed to secure Jones’s attendance at trial. While Jones does not have a lengthy criminal history, he is accused of committing forty-one felonies against at least twenty different victims over a three-year period, and some of those felonies allegedly occurred while he was out on bail in Cause F6-437. The accrual of new charges during pretrial release in another matter supports a finding that Jones has shown a “disdain for authority, which might indicate that

[he] might not recognize and adhere to the authority of the court to bring him to trial.” I.C. § 35-33-8-4(b)(10).

[14] In addition, the nature and gravity of Jones’s offenses and the potential consequences⁸ are severe and, thus, “tend to increase the risk [he] will fail to appear at trial.” *Sneed*, 946 N.E.2d at 1259; *see also Winn v. State*, 973 N.E.2d 653, 656 (Ind. Ct. App. 2012) (noting subsection 7 of Indiana Code Section 35-33-8-4(b) “alone is sufficient to warrant a refusal to reduce the amount of bail”). And, finally, his bond amount is within the bond guidelines established by Shelby County; i.e., \$10,000 for a Level 5 felony and \$7,500 for each Level 6 felony.⁹ *See* Rule 2.1 of the Shelby County Local Criminal Rules, LR73-CR00-2.1; *Samm v. State*, 893 N.E.2d 761, 765 (Ind. Ct. App. 2008) (citing *Mott v. State*, 490 N.E.2d 1125 (Ind. Ct. App. 1986), for the proposition that a local bond schedule can be presumed to set a reasonable amount to assure the presence in court of the accused, although a bond set outside the bond schedule is not presumably unreasonable).

[15] In addition to citing his lack of a criminal history, Jones argues that factors (1) through (3) of Indiana Code Section 35-33-8-4(b) weigh in his favor because he allegedly has resided in Shelby County for a long time and has an income and a

⁸ The maximum sentence for a Level 5 felony is six years, with a three-year advisory sentence. I.C. § 35-50-2-6(b). The maximum sentence for a Level 6 felony is two and one-half years, with an advisory sentence of one year. I.C. § 35-50-2-7(b). Jones faces one Level 5 felony charge and forty Level 6 felony charges.

⁹ Given Jones’s one Level 5 felony charge and forty Level 6 felony charges, his bond under the county guidelines could have been in excess of \$300,000.

place to live.¹⁰ Jones fails to point to evidence supporting his assertions, other than his own self-serving statements. More to the point, he is asking us to reweigh the evidence on appeal, which we will not do. *See, e.g., Hall*, 166 N.E.3d at 412.

[16] Jones has failed to show that the decision declining to reduce bond was clearly against the logic and effect of the facts and circumstances before the trial court.

[17] Affirmed.

Najam, J., and Bradford, C.J., concur.

¹⁰ Jones also notes in passing that his medical condition “is an additional substantial mitigating factor in favor of lowered bail or release on recognizance.” Appellant’s Br. at 19. However, he has failed to support that bald assertion with citation to the record or legal authority and has, therefore, waived it. Ind. Appellate Rule 46(A). Waiver notwithstanding, there is no evidence in the record to support the implication that Jones will not receive adequate medical care for his condition while incarcerated.