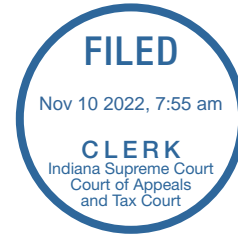


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Tim A. Rivers,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 10, 2022

Court of Appeals Case No.
22A-CR-1291

Appeal from the Washington
Circuit Court

The Honorable Larry W. Medlock,
Judge

Trial Court Cause Nos.
88C01-2204-CM-317
88C01-2204-F5-288
88C01-2205-CM-369
88C01-2205-CM-370
88C01-2205-CM-371
88C01-2205-CM-372
88C01-2205-CM-373
88C01-2205-CM-374
88C01-2205-CM-375

Brown, Judge.

[1] Tim A. Rivers appeals the trial court’s Order on Motion for Bond. We affirm.

Facts and Procedural History

[2] On April 18, 2022, the State charged Rivers in cause number 88C01-2204-F5-288 (“Cause No. 288”) with: Count I, domestic battery with a prior conviction as a level 5 felony; Count II, domestic battery resulting in bodily injury to a person less than fourteen years of age as a level 5 felony; Count III, neglect of a dependent resulting in bodily injury as a level 5 felony; Count IV, intimidation as a level 5 felony; and Count V, unlawful possession of a firearm by a domestic batterer as a class A misdemeanor. The same day, the court issued a no contact order providing that Rivers was to have no contact with D.H. in person, by telephone or letter, through an intermediary, or in any other way, directly or indirectly, except through an attorney of record, while released from custody or pending trial. The order further provided “[t]his provision shall also be effective even if the defendant has not been released from lawful detention” and “[v]iolation of this order . . . could result in a revocation of bond.” Appellant’s Appendix Volume II at 84-85.

[3] On April 22, 2022, the State charged Rivers with invasion of privacy as a class A misdemeanor under cause number 88C01-2204-CM-317 (“Cause No. 317”). Also on that day, the State filed a motion to revoke bond in Cause No. 288 alleging Rivers was released on a \$20,500 bond on April 18, 2022, and arrested for invasion of privacy as a class A misdemeanor on April 21, 2022, and the

court ordered that an arrest warrant be issued and that Rivers be detained until a hearing was held. Rivers requested a bond hearing under Cause Nos. 317 and 288. On May 11, 2022, the State charged Rivers with invasion of privacy under seven causes.¹

[4] On May 12, 2022, the court held a bond hearing. D.H.'s father testified that he wanted to talk to Rivers, that he asked Rivers to call him, and that Rivers called him from the jail. He indicated that he wanted D.H. and Rivers back together. He testified that Rivers asked to talk to D.H., that he let him talk to her, and that he did not remember how many times this occurred. He also testified that Rivers asked him to ask D.H. if she wanted to get back together with him, that he asked her, and that D.H. said she had a lot to think about.

[5] D.H. testified that Rivers can become angry and out of control and then she becomes afraid. She indicated an incident occurred at her home, her daughter was injured and taken to the hospital, child services and the police were contacted, and Rivers was taken to jail. She indicated that her father and Rivers spoke on the phone, Rivers asked to speak with her, her father handed her the phone, and she spoke with Rivers. She indicated they talked about getting back together and her need for money. She agreed that she spoke with Rivers multiple times. She indicated that, during the calls, she told Rivers a few times that he was going to get in trouble for talking to her. She also indicated

¹ See cause numbers 88C01-2205-CM-369; 88C01-2205-CM-370; 88C01-2205-CM-371; 88C01-2205-CM-372; 88C01-2205-CM-373; 88C01-2205-CM-374; and 88C01-2205-CM-375.

that, during one call, Rivers talked about leaving the state. She stated that Rivers had been previously charged with domestic battery against her under cause number 88C01-1801-F6-44 (“Cause No. 44”)² and that she was financially dependent on him. The court admitted jail phone call recordings³ and a summary of statements made during the calls.

[6] On May 16, 2022, the court issued an Order on Motion for Bond providing:

COMES now the Court after having reviewed eight (8) different recordings that originated from [Rivers] at the Washington County Detention Center, FINDS that Mr. Rivers manipulates, bullies, threatens, [and] attempts to coerce [D.H.] into doing as he demands. He calls her names, continually tells her to shut up and doesn’t seem to understand or care that this is inappropriate behavior and in violation of Orders of the Court. It is obvious to the Court that Mr. Rivers utilizes his funds and possessions to manipulate and control [D.H.] and attempts to escape responsibility for his actions by trying to coerce her into dropping the criminal case, which she has no authority to do, and saying things that would advance his desires. Additionally, from his own words, he indicates that he will leave the State and believes he is immune to the process of the law.

Additionally, it is obvious that [D.H.] has been subject to physical, mental, and psychological abuse. From her communication she has refrained from reporting numerous incidents of abuse to law enforcement as a result of his control and influence over her.

The Court FINDS that Mr. Rivers is a flight risk and poses a danger to [D.H.] and perhaps others as a result of his behavior, attitude and

² Rivers pled guilty to domestic battery as a class A misdemeanor in March 2019 under Cause No. 44.

³ The record includes a transcription of conversations between Rivers and D.H. which is titled “Supplemental Volume 5 - Transcription of Jail Calls.”

resources. The Court is not inclined to reinstate any amount of bond nor set a bond in any subsequent Invasion of Privacy cases, although my guess is that he will blame [D.H.], his lawyer, the Court, and the State of Indiana. He has no one to blame but himself.

Appellant's Appendix Volume II at 52-53.

Discussion

[7] An abuse of discretion standard of review applies to a trial court's bail determination. *DeWees v. State*, 180 N.E.3d 261, 264 (Ind. 2022). A trial court abuses its discretion if its decision is clearly against the logic and effect of the facts and circumstances before the court or the reasonable, probable, and actual deductions to be drawn therefrom. *Id.* Ind. Code § 35-33-8-5(a) provides that, upon a showing of good cause, the State may be granted a revocation of bail and that credible hearsay evidence is admissible to establish good cause. The court may revoke bail upon clear and convincing proof that, while admitted to bail, the defendant violated any condition of the defendant's current release order or committed a felony or a class A misdemeanor that demonstrates instability and a disdain for the court's authority to bring the defendant to trial. Ind. Code § 35-33-8-5(d). *See DeWees*, 180 N.E.3d at 268 (a trial court may revoke bail entirely under Ind. Code § 35-33-8-5).

[8] The record reveals testimony and evidence that Rivers spoke with D.H. on the phone multiple times while in jail in violation of the trial court's no contact order. During one call, Rivers stated "I've never called the cops on you. I've never had you arrested. So you tell me how I can trust you." Supplemental

Volume 5 - Transcription of Jail Calls at 10. In another call, he said “listen to me. You’re as bad as your dad is. It takes two not just me. Understand that. . . . make it be known, it takes two. It wasn’t . . . all my fault, okay? You, you were part of it too,” D.H. stated “I know I’m guilty of bi---ing,” and Rivers said “[h]ow many times have I told you to quit? Please. You don’t listen,” “[y]ou’re never right, so shut up,” and “I love you and the kids with all my heart.” *Id.* at 18-19. In another call, D.H. stated “I’m a stupid a person that belongs to you?” and Rivers said “[y]eah, pretty much. Yeah, you’re stupid.” *Id.* at 25. He later asked “[a]re you going to marry me or not?” *Id.* at 29. During another call, Rivers stated “Listen to me. Either, either when I get out of here I come and spend the week, the rest of the weekend with you and the kids or I’m leaving the state,” D.H. said “[y]ou can’t leave the state you have an open criminal case,” Rivers replied “I can, I can, I can leave the state, yes I can,” D.H. stated “what are you going to do in another state,” and Rivers answered “[g]et the f--- out of town. Get the f--- out of Indiana.” *Id.* at 56-57. Based on the record, we find no abuse of discretion by the trial court.

[9] For the foregoing reasons, we affirm the trial court’s order.

[10] Affirmed.

Altice, J., and Tavitas, J., concur.