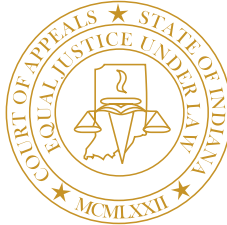


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Rodrigo Perez Curiel,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



June 3, 2025

Court of Appeals Case No.
24A-CR-2826

Appeal from the Monroe Circuit Court
The Honorable Valeri Haughton, Judge

Trial Court Cause No.
53C02-2410-F1-841

Memorandum Decision by Judge Mathias
Judges Foley and Felix concur.

Mathias, Judge.

[1] Rodrigo Perez Curiel appeals the trial court’s order that he be held on \$250,000 surety and \$1,000 cash bail. On appeal, Curiel contends that the trial court abused its discretion in not revising the bail amount. The State cross-appeals and asserts that the trial court abused its discretion when it excluded certain evidence at the bail-review hearing.

[2] We affirm.

Facts and Procedural History

[3] On October 2, 2024, the State charged Curiel with Level 1 felony rape, two counts of Level 1 felony attempted rape, Level 5 felony escape, and Level 6 felony strangulation. According to the probable cause affidavit in support of those charges, Bloomington Police Department officers came to suspect Curiel of having attacked and raped a woman in the early morning hours of September 29. Officers were aware from prior encounters with Curiel that he did not have a valid driver’s license. They were further aware that a vehicle frequently associated with him was registered to a third party.

[4] The probable cause affidavit further alleges that, after officers had detained Curiel for questioning, he twice incorrectly spelled his own name. And, after Curiel had purportedly incriminated himself, officers transported him to the Monroe County Jail. Inside the sally port of the jail, as an officer began to open the main door, Curiel “began fleeing on foot . . . while still handcuffed.”

Appellant's App. Vol. 2, p. 12. After a short distance, officers re-apprehended Curiel.

[5] After an initial hearing, the trial court set Curiel's bail at \$100,000 surety and \$500 cash, but, after an IRAS¹ pretrial release report identified Curiel as a "[m]oderate" risk to re-offend, the court increased his bail to \$250,000 surety and \$1,000 cash. *Id.* at 16-17. At an ensuing bail-review hearing, Curiel testified that he has lived in Monroe County for eleven years; that he lives with several family members; and that he does not have a United States passport but does have a Mexican passport. Bloomington Police Department Detective Wade Berry also testified to the investigation underlying the charges. Detective Berry's testimony included Curiel's attempted escape from the sally port of the Monroe County Jail.

[6] The State also sought to introduce evidence regarding additional, but at that moment uncharged, criminal allegations relating to material allegedly recovered from Curiel's phone following his arrest. Curiel objected to the admission of any such evidence on the ground that he had "learned about [it] ten or fifteen minutes ago." Tr. p. 12. The trial court excluded the evidence. The State did not make an offer of proof as to what the excluded evidence would have shown.

¹ IRAS stands for the Indiana Risk Assessment System. Indiana Criminal Rule 2.6(B) directs our trial courts, "[i]n determining whether an arrestee presents a substantial risk of flight or danger," to utilize at least in part "the results of an evidence-based risk assessment approved by the Office of Judicial Administration." IRAS meets that standard.

- [7] At the conclusion of the bail-review hearing, the court found Curiel to be “an exceptional risk to the community” and a “flight risk.” *Id.* at 23. The court then affirmed Curiel’s revised bail amount, and this appeal ensued.

Standards of Review

- [8] Both issues raised in this appeal require us to review the trial court’s decisions for an abuse of discretion. *See, e.g., Perry v. State*, 541 N.E.2d 913, 919 (Ind. 1989) (bail); *see also Wilson v. State*, 765 N.E.2d 1265, 1272 (Ind. 2002) (admission of evidence). “An abuse of discretion occurs when the court’s decision either clearly contravenes the logic and effect of the facts and circumstances or misinterprets the law.” *Nardi v. King*, 253 N.E.3d 1098, 1103 (Ind. 2025) (quotation marks omitted).

1. The trial court did not abuse its discretion when it affirmed Curiel’s revised bail amount.

- [9] Article 1, Section 16 of the Indiana Constitution provides that “[e]xcessive bail shall not be required.” Accordingly, Indiana Code section 35-33-8-4(b) (2024) provides:

Bail may not be set higher than that amount reasonably required to assure the defendant’s appearance in court or to assure the physical safety of another person or the community if the court finds by clear and convincing evidence that the defendant poses a risk to the physical safety of another person or the community. In setting and accepting an amount of bail, the judicial officer shall consider the bail guidelines described in section 3.8 of this chapter [and Indiana Criminal Rule 2.6] 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.

Similarly, “the court may not reduce bail if the court finds by clear and convincing evidence” that the defendant “poses a risk to the physical safety of another person or the community.” I.C. § 35-33-8-5(c).

[10] We cannot say that the trial court abused its discretion when it affirmed Curiel’s revised bail amount of \$250,000 surety and \$1,000 cash. The evidence before the court demonstrated that IRAS had assessed Curiel to be a “[m]oderate” risk to reoffend. Appellant’s App. Vol. 2, p. 16. The State had charged Curiel with violent crimes, including three Level 1 felonies, each of which carries a maximum possible term of forty years. *See* I.C. § 35-50-2-4. Curiel did not have an Indiana (or other state) driver’s license. The vehicle officers associated with him was registered to a third party. He held only a Mexican passport and misspelled his own name twice when he met with officers about the alleged offenses. And, significantly, he attempted to escape from the Monroe County Jail, which resulted in an additional Level 5 felony escape charge. Those facts and circumstances readily support the trial court’s assessment of Curiel’s danger to the community and flight risk and, thus, his bail amount.

[11] Nonetheless, Curiel asserts that his revised bail amount is contrary to Monroe County Local Rule LR53-CR00-0310. But we need not interpret the local rule to decide this appeal. Our review is under Indiana Code section 35-33-8-4(b), and whether the bail was set within the local bail schedule or exceeded it is simply one factor for us to consider in our review and is not dispositive. Thus, the trial court was free to set Curiel’s bail above the local schedule so long as the amount was not excessive under the statute. Assuming for the sake of

argument that Curiel's reading of the local rule is correct, we conclude that his bail is not excessive under Indiana Code section 35-33-8-4(b).

- [12] Curiel's other arguments on appeal simply seek to have this Court reweigh the evidence that was before the trial court, which we will not do. Curiel's arguments therefore fail, and we affirm the trial court's decision on his bail amount.

2. The State did not preserve its cross-appeal issue for our review.

- [13] On cross-appeal, the State argues that the trial court abused its discretion at the bail-review hearing when it excluded evidence relating to additional possible charges the State may have had against Curiel based on material allegedly obtained from Curiel's phone following his arrest. Curiel objected to that evidence because he had just learned of it about fifteen minutes prior to the bail-review hearing.
- [14] The State did not make an offer of proof regarding the excluded evidence. Thus, we are unable to say what the substance of the proffered evidence would be or why that evidence should be admissible here. We therefore conclude that, by failing to make an offer of proof, the State waived its claim of the proffered evidence's admissibility. *See, e.g., King v. State*, 799 N.E.2d 42, 48 (Ind. Ct. App. 2003), *trans. denied*.

Conclusion

[15] For all of these reasons, we affirm the trial court's bail decision and its exclusion of the State's additional evidence.

[16] Affirmed.

Foley, J., and Felix, J., concur.

ATTORNEY FOR APPELLANT

Noah T. Williams
Monroe County Public Defender's Office
Bloomington, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

J.T. Whitehead
Deputy Attorney General
Indianapolis, Indiana