

STATEMENT OF THE CASE

Vaughn Reeves, Sr., appeals the trial court's denial of his motion for reduction of bail. Reeves raises a single issue for our review, namely, whether the trial court abused its discretion in denying his motion.

We reverse and remand with instructions.

FACTS AND PROCEDURAL HISTORY

In 1988, Reeves founded Alanar Incorporated ("Alanar") and established its headquarters in Sullivan County. Alanar's stated mission was to assist churches and other nonprofits in securing financing for building projects and to assist in refinancing mortgages for those entities. Reeves and his three sons (collectively, "the Reeveses") were the corporate officers of Alanar and its related business entities.

According to the probable cause affidavit in this case, "Alanar's marketing strategy was devised to appeal to the Christian faith of potential investors." Appellant's App. at 14. Once a targeted church agreed to Alanar's terms, the Reeveses engaged in "a modified Ponzi scheme" whereby the Reeveses "illegally used money from both churches and bondholders" to pay prior investors. Id. at 14-15. "The scheme the Reeves[es] carried out involved thousands of investors and many millions of dollars passing through approximately 300 separate bond issues. The Reeveses underwrote bonds that raised at least \$120 million." Id. at 13. "As a result of their actions, the Reeves[es] received more than \$6 million in ill-gotten gains [Defendant] Reeves [personally] received approximately \$2,862,191." Id. at 20. In July of 2005, the United

States Securities and Exchange Commission (“SEC”) obtained an injunction against Alanar for Alanar to cease all operations.

While an officer for Alanar, Reeves lived in Sullivan County with his wife, Judith. Shortly after the SEC obtained its injunction against Alanar, Reeves and his family members relocated outside of Indiana. Reeves eventually moved to Lexington, Kentucky, where he became an employee of Sears Home Improvement. In July of 2009, the State charged Reeves with ten counts of securities fraud, each a Class C felony. Shortly thereafter, Reeves surrendered himself to Indiana State Police Officer Chris Effner.

After the State filed its charges against Reeves, the trial court set Reeves’ bail at \$1,500,000 with no 10% cash bail allowed. On July 22, Reeves filed a motion to reduce the bail amount. The court held an evidentiary hearing on Reeves’ request on August 28. On September 8, the court denied Reeves’ motion, stating: “Defendant failed to 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.” Appellant’s Br. at 11. This appeal ensued.

DISCUSSION AND DECISION

Reeves appeals the trial court’s denial of his motion to reduce the amount of bail. In a recent and nearly identical case involving one of Reeves’ sons, we held as follows:

the trial court has not articulated any nexus between those circumstances [the facts of this case, as applied to the factors identified in Indiana Code Section 35-33-8-4(b)] and the \$1,500,000 bail amount. The fundamental purpose of bail is to ensure the presence of the accused when required

We will not attempt to reconstruct the trial court's thought process on appeal on an inadequate record. We can say, however, that the bail appears excessive in that \$1,500,000 appears more than necessary to assure Reeves' presence at trial. See Samm[v. State, 893 N.E.2d 761, 768 (Ind. Ct. App. 2008)]; see also Sherelis[v. State, 452 N.E.2d 411, 413 (Ind. Ct. App. 1983)] ("Bail is excessive where the amount set represents a figure higher than that reasonably calculated to assure the accused party's presence at trial."). Nevertheless, bail should be established by the trial court in the first instance and not by this court on appeal.

Thus, we reverse the trial court's order denying Reeves' request to reduce the bail amount. We remand for further proceedings and with instructions that the trial court set Reeves' bail in an amount that takes into account the statutory factors identified in Indiana Code Section 35-33-8-4(b) and that the court explain its rationale for the bail imposed in relation to those standards.

Reeves v. State, ___ N.E.2d ___, 2010 WL 334811, at *4 (Ind. Ct. App. 2010), not yet certified. We adopt those statements from our the prior Reeves decision and hold that the trial court in this case likewise abused its discretion in denying Vaughn Reeves, Sr.'s motion to reduce the bail amount.¹

Reversed and remanded with instructions.

FRIEDLANDER, J., and BRADFORD, J., concur.

¹ Because we hold that the trial court abused its discretion in denying Reeves' motion, we need not consider Reeves' alternative arguments on appeal that the bail amount infringes on his right to counsel or denies him equal protection of the laws under the federal and Indiana constitutions.