

FILED

AUG 24 2023

NINA C. REMSON, J.S.C.

PREPARED BY THE COURT
HONORABLE NINA C. REMSON, J.S.C
BERGEN COUNTY SUPERIOR COURT
10 MAIN STREET
HACKENSACK, NEW JERSEY 07601

STATE OF NEW JERSEY,

Plaintiff,

v.

SHALOM YEHUDIEL,

Defendant.

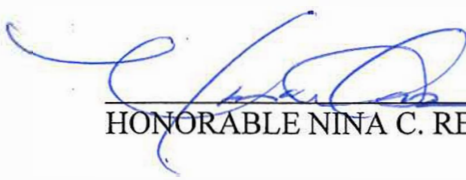
SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY
LAW DIVISION: CRIMINAL PART
Complaint #: W-2023-000130-0217

ORDER

THIS MATTER having been opened to the Court by way of notice of Emergent Motion for a Detention Hearing Pursuant to N.J.S.A. § 52:4b-36 (R) And Rule 3:4a, filed by Michael A. Gorokhovich, Esq., attorney for Victim E.A., on notice to Assistant Prosecutor Caroline Lawlor of the Union County Prosecutor’s Office, on behalf of the State, and on notice to Defendant, and the Court having reviewed the submissions of counsel for the victim, and neither the State nor the defendant having filed any papers, and for good cause shown;

IT IS on this 27th day of August, 2023,

ORDERED that the Victim’s Emergent Motion for a Detention Hearing in the above captioned matter is **DISMISSED**.



HONORABLE NINA C. REMSON, J.S.C.

STATE OF NEW JERSEY VS. SHALOM YEHUDIEL Complaint No. W-2023-000130-0217

Explanation:

On April 19, 2023, the victim filed a Citizen Complaint under Complaint No. S-2023-000032-0217, alleging multiple counts of sexual assault by this Defendant. According to counsel's certification submitted with this application, the Bergen County Prosecutor's Office (BCPO) failed to investigate, so the victim initiated a Civil Complaint for the purpose of conducting an investigation. It is further asserted by counsel for the victim that the proceeds of said investigation were offered to the BCPO, who declined to review the same "due to its conflict of interests, and this matter was then transferred by the Attorney General's office to the current prosecutors, Union County Prosecutor's Office ("UCPO") for its fresh review." Certification p.2 fn 1.

On August 8, 2023, Complaint No. W-2023-0000130-0217 was made by "other officer" and a probable cause certification was signed by "other officer law enforcement officer" with the complainant listed as Jessica Tattoli 32 Rahway Ave. Elizabeth NJ 07202. On information and belief, the complainant is a Detective with the Special Victim's Unit of the Union County Prosecutor's Office. The Complaint alleges one count of sexual assault in the second degree and one count of endangering the welfare of a child in the third degree.

On August 18, 2023, the Court held a First Appearance hearing and entered an Order for the Defendant to be released on Pretrial Release Level 3 on consent of the State (Union County Assistant Prosecutor Christine Lawlor appearing) and the Defendant, although the Public Safety Assessment recommended ROR. As one of the conditions of release, the Court prohibited the Defendant from traveling outside of the United States without permission from the Court and ordered the surrender of Defendant's passport. On information and belief, Bergen County Pretrial Services has confirmed the passport has been surrendered.

Notwithstanding that, the victim contends that Defendant is a flight risk, and requests that Defendant be detained pending trial. In furtherance of that request, the victim's personal attorney filed an Emergent Application for Detention of the Defendant. The victim claims that she has standing pursuant to N.J.S.A. 52:4b-36(r). Section R of N.J.S.A. 52:4b-36 permits victims to "appear in any court before which a proceeding implicating the rights of the victim is being held, with standing to file a motion or present argument on a motion filed to enforce any right

conferred herein or by Article I, paragraph 22 of the New Jersey Constitution, and to receive an adjudicative decision by the court on any such motion.”

The rights set forth in paragraphs A through Q of N.J.S.A. 52:4b-36, and Article I, paragraph 22 of the New Jersey Constitution do not confer a right upon a crime victim to file their own motion for Pretrial Detention of a Defendant. Moreover, N.J.S.A. 2A:162-19, Paragraph A specifically provides for a “prosecutor” to file such a motion.

In the case State v. Lavrik, 472 N.J. Super. 192 (App. Div. 2022), the Court held that the victim did have standing to be heard concerning the entry of a Civil Reservation Order. In that case, the Appellate Division recognized that Civil Reservations were not expressly referenced in the Victim’s Rights Amendment of the NJ Constitution or the Crime Victim’s Bill of Rights, but found it to be implicit in the Act. It should be noted that Paragraph I of N.J.S.A. 52:4b-36, specifically provides for compensation for losses sustained by victims whenever possible.

The Court in Lavrik also noted that crime victims have the right to be consulted about plea offers, but “that right must yield to the prosecutor’s authority and discretion ‘to enter into any plea agreement which the prosecutor deems appropriate’ Lavrik, supra, at 210. Similarly, the determination whether to make application to the court to detain a Defendant pending trial is the province of the Prosecutor’s Office, who has the authority to file such motion. Nowhere is such standing to file a detention motion conferred to a victim in either the detention statute N.J.S.A. 2A:162-19 or in N.J.S.A. 52:4b-36, or in the NJ Constitution.

Accordingly, the victim in this case does not have standing to file for detention against the Defendant, and this motion is DISMISSED.