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October 17, 2024

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LETTER BRIEF ON BEHALF OF THE STATE OF NEW JERSEY

SUPERIOR COURT OF
NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-150-24T6

STATE OF NEW JERSEY,	:	CRIMINAL ACTION
Plaintiff-Respondent,	:	On Appeal from an Order Granting
	:	Pretrial Detention of the Superior Court
	:	of New Jersey, Law Division
v.	:	Salem County
	:	
SEAN M. HIGGINS	:	SAT BELOW:
	:	Hon. Michael J. Silvanio, P.J.Cr.
Defendant-Appellant.	:	

CONFINED

Your Honors:

Kindly accept this letter brief in lieu of a more formal brief filed in response and in opposition to the defendant's appeal of his pre-trial detention pursuant to Rule 2:9-13(b).

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STATEMENT OF FACTS & PROCEDURAL HISTORY

Shortly after 8:00 pm om the night of August 29, 2024, three vehicles were driving northbound on Pennsville-Auburn Road (County Route 551) in Oldmans Township, Salem County. The defendant was the third car in line. The vehicles were traveling at approximately 55 miles per hour in a 50 mph zone. The defendant would slow down and then approach the middle vehicle at a high rate of speed. This occurred approximately three to four times. The defendant would also tailgate the middle vehicle. (Da55).

The middle vehicle, driven by Jane Doe 1,[1] observed the lead vehicle apply its brakes and move towards the southbound lane of travel. Jane Doe 1 then observed two individuals riding bicycles. These individuals were subsequently identified as John and Matthew Gaudreau. Jane Doe 1 indicated that the Gaudreaus were operating their bicycles directly atop the fog line and were not in the lane of travel. Jane Doe 1 determined that she would also move left into the southbound lane to pass the bicycles. At this point, she observed the defendant suddenly pass her on the left at a high rate of speed. The defendant then swerved in front of her, striking the

[1] The identities of all Jane Does are known. Names have been removed to protect their privacy due to the publicity of this case.

Gaudreaus and continued to pass the first vehicle on the right. Jane Doe 1 immediately pulled over, called 911 and attempted to render aid. (Da55).

The lead vehicle was driven by Jane Doe 2. Jane Doe 2 advised that while traveling north she observed the bicyclists also traveling north in in the shoulder. She moved partially into the southbound lane to pass the bicyclists. She then observed the defendant approaching her from behind at a high rate of speed. The defendant then moved right and attempted to pass her vehicle on the right side of the road. In order to complete the pass, about half of the defendant's vehicle exited the roadway and was traveling on the grass. As the defendant was passing the lead vehicle on the right, the occupants of the vehicle were able to observe the defendant strike the Gaudreau brothers. The defendant continued to travel northbound. Jane Doe 2 parked her vehicle, called 911, and attempted to render aid. (Da44).

The defendant's vehicle sustained significant damage and became inoperable approximately 1/10 of a mile down the road. A passing motorist, Jane Doe 3, advised that the defendant appeared to be "freaking out". The defendant initially called his friend, A.T., prior to calling 911. He then placed a second call to A.T. where he told her, "I'm done, I'm done. I might as well just fucking kill myself now." (Da57).

The defendant's statements to the New Jersey State Police were internally inconsistent and were contradicted by the statements of the other two drivers. The defendant indicated that the other vehicles were traveling at 30 mph and that he was impatient. He felt the first vehicle pulled into the southbound lane to block him from passing her. He then moved back into the northbound lane and struck the Gaudreau brothers. He indicated that his pass was conducted at around 40 mph. He further indicated that the Gaudreaus were in the northbound lane of travel. Of note, the other drivers have the vehicles traveling slightly above the 50-mph speed limit and the Gaudreaus on the fog line or in the shoulder. While he initially denied attempting to pass the lead vehicle, he ultimately confirmed the vehicles were side by side when he hit the Gaudreaus and was therefore attempting to pass the lead vehicle on the right. The defendant admitted to consuming 5-6 beers after concluding work at 3 pm and consuming two beers while driving around for two hours prior to the incident. He further admitted to attempting to hide the beer cans after he had struck the Gaudreaus. He stated, "I get impatient, I had beer in my system, now my life is ruined…That's literally what this is all about. My impatience and reckless driving." (Da48).

The defendant's wife was also interviewed. She indicated that the defendant would drink often and that working from home, "did him in". She indicated that the

incident was likely the cause of the defendant's "road rage and impatience". Which, she added, was more typical for him than drunk driving.

The defendant's blood was drawn pursuant to a warrant and revealed a BAC of .087%. (Da7).

Subsequent to his incarceration in the Salem County Correctional Facility, the defendant made several calls. In a call to his wife, she tells him, "you're an idiot. I told you before not to do that stuff and you don't listen to me." The defendant responded, "I know…My life is over." Later, after the phone is passed to a friend, defendant's wife is heard yelling, "you were probably driving like a nut like I always tell you you do and you don't listen to me, instead you just yell at me." (S-8) The defendant made several other calls indicating that he was driving recklessly at the time of the incident. See Da20-25.

On August 30, 2024, the State moved for pretrial detention. The detention hearing was conducted on September 13, 2024. At the hearing, the defendant stipulated to probable cause. After hearing arguments from counsel, the Motion for Pretrial Detention was granted by the Honorable Michael J. Silvanio, P.J.Cr. The Court found that the State's case was "very strong." The court found that the defendant was operating his motor vehicle in an "overly aggressive manner" in "road rage-like behavior" in an excessive rate of speed while under the influence of alcohol

that resulted in the death of two innocent bicyclists. The court appropriately found that it had serious concerns as to whether the defendant could safely operate a motor vehicle on the roadway. Additionally, the Court found that there was a danger that the defendant would absent himself from the Court. This appeal follows.

LEGAL ARGUMENT

SUBSTANITAL CREDIBLE EVIDENCE SUPPORTED THE TRIAL COURT'S FINDINGS THAT NO CONDITIONS WOULD REASONABLY ASSURE THE DEFENDANT'S APPEARANCE IN COURT AND PROTECT THE COMMUNITY FROM HIS CONDUCT

The trial court's decision was a proper exercise of discretion when faced with a defendant charged with the death of two individuals, whose conduct and supporting evidence, presented by the State, demonstrated a pattern of conduct exhibiting a reckless disregard for the safety of the community, who has exhibited suicidal conduct and has an incentive to remove himself from the jurisdiction of the court.

The abuse of discretion standard applies to review of a trial court's order granting or denying pretrial detention pursuant to the Criminal Justice Reform Act. State v. S.N., 231 N.J. 497 (2018). The trial court only abuses its discretion if it relies on an impermissible basis, relies upon irrelevant or inappropriate factors, fails to consider all relevant factors, or makes a clear error in judgment. Id. at 515. A

foundational principle in appellate review of trial court decisions is that "deference is owed to the trial court's determinations of fact and credibility." Id. at 514-515 citing State v. S.S., 229 N.J. 360, 379 (2017); State v. Elders, 192 N.J. 224, 244 (2007).

Initially, it should be noted that the defendant did not dispute that probable cause existed for the charges he is facing. (T6-8 to 16).

Next, the court considered the nature and circumstances of the offenses charged. N.J.S.A. 2A:162-20(a). The court appropriately noted that the defendant was charged with the deaths of two individuals. The deaths were caused by the defendant operating a motor vehicle (a deadly weapon) in an overly aggressive manner at a high rate of speed, conducting an illegal pass of two motor vehicles all while under the influence of alcohol. The factors relied upon by the court were appropriate and rooted in the record.

Second, the court found that the strength of the State's case was "very strong". N.J.S.A. 2A:162-20(b). The defendant's conduct was observed by multiple witnesses in two motor vehicles. He made inculpatory statements to the police and other individuals, some of which were recorded by the county correctional facility. Additionally, a blood draw taken immediately after the incident indicated that he

was driving above the legal limit. Once again, the factors relied upon by the court find substantial support in the record.

Third the court noted, and the State concedes, that the history and characteristics of the defendant demonstrate no criminal history, strong ties to the community and a record of military service. However, the court's finding that the defendant had "road rage issues" was supported, not only by his actions that night, but by the statements of his wife that this was not an isolated incident. Further, the court's finding that the defendant struggled with PTSD was provided to the court in the documents submitted on behalf of the defendant. Once again, the court's finding was supported by the record.

Fourth, the court appropriately found that the defendant represented a danger to the community. N.J.S.A. 2A:162-20(d). The defendant's reckless conduct, in 1) driving a motor vehicle while intoxicated, 2) consuming additional alcohol while driving, and 3) becoming so impatient and so enraged to engage in such reckless conduct that resulted in deaths of two innocent brothers demonstrates such lack of judgment and reckless conduct that he is a danger to the community. Additionally, the court must be mindful, that the stressor on this occasion, an argument with his mother, pales in comparison to the stressors that will be placed upon him if released. As the court is aware, this case has drawn international media attention, attention that will undoubtedly be brought to the defendant's doorstep if he is released. There

is serious concern as to how the defendant will react when the stress placed on him is amplified. The court's concern for the safety of the community was genuine and appropriate and amply supported by the record.

The court also considered the PSA scores of 1/1 and the recommendation of Pretrial Services to release the defendant. But, as has been well established, "Recommendations based on the PSA... do not replace judicial discretion. Trial judges make the ultimate decision on release after they consider other relevant details." State v. Mercedes, 233 N.J. 152, 165 (2018) (citing State v. Robinson, 229 N.J. 44, 62 (2017)). Therefore, it was not an abuse of discretion to determine that detention was appropriate even when the PTS recommendation was for release. If courts were to merely follow the PTS recommendation, there would be no point in even having detention hearings.

Further, there is a legitimate concern that the defendant would absent himself from the jurisdiction of the court either through flight or through suicide. Contrary to the defendant's suggestion in his brief, the defendant made more than one comment that indicated that he was contemplating taking his own life. Comments were made to, at least, the State Police, A.T and his wife. Because he told the State Police he had thoughts of suicide he was taken to the hospital prior to the jail and, as the court noted, placed on suicide watch once in the correctional facility. This was an appropriate consideration by the court and its finding was based upon facts

in the record. Again, as highlighted above, the stressors on the defendant will only be worse (and the monitoring/support structure less) if released.

The defendant's argument that there was less restrictive means to ensure the safety of the public does not survive scrutiny. First, merely placing an interlock device on the defendant's motor vehicle does not solve the issue. While intoxication was certainly a contributory factor, the defendant's impatience, overly aggressive driving, rate of speed, recklessness and poor judgment all were more significant factors in the deaths of the brothers and none of which would be addressed by an interlock device. It was appropriate for the court to not find this offer by the defendant compelling.

Further, the defendant, for the first time on appeal, is arguing that he would submit to a full license suspension. However, merely having the defendant turn in his driver's license is not sufficient to protect the public. That is not a guarantee that the defendant would not place himself behind the wheel. Especially, as here, where the defense is already on record indicating that his wife works full-time and

> "[t]here are many times where (the defendant) needs to drive to take care of children to get them to sporting events or other events that they have after school. So we would hope that your Honor is willing to release him so that he can still provide for the family."
>
> (T29-12 to 17)

The defendant has already demonstrated his total disregard for the motor vehicle laws of this state. He drove intoxicated, consuming alcohol from open containers while driving, sped, tailgated, and illegally passed with tragic consequences. There is no confidence that taking his license will prevent his driving.

Finally, the defense reliance on the unpublished case of State v. Crusen, 2022 WL 4588350 (App. Div. 2022) is misplaced. As the Crusen court makes clear, they were reviewing a trial court decision to reopen a detention hearing and release the defendant on an abuse of discretion standard. The court found no abuse of discretion. That does not mean that a trial court, who reached a different opinion, abused its discretion. Our jurisprudence, and the abuse of discretion standard, contemplates that two courts addressing similar, but unique, cases can reach different conclusions. On detention motions, broad discretion is granted to the trial courts, and their feel for the cases before them. Their decisions should not be disturbed on appeal so long as they are grounded in the record before them.

The defendant here is positionally different in than the one in Crusen,[2] where the trial court granted a motion to reopen detention. Just because the defendant here was detained, when Crusen was released, does not mean the decision to detain was

[2] Though the State must note that the defendant in Crusen was driving with a suspended license which supports the State's position that merely suspending one's driving privileges, as the defendant suggests, would not prevent an individual from driving.

an abuse of discretion. Each case turns on the facts before it and each decision should be given deference and affirmed so long as the trial court's decision is grounded in the facts before it. The fact that, as the defense argues, the two trial courts reached different conclusions based on the unique facts before them is immaterial so long as the decisions have adequate support in the facts before each court.

Here, the defendant's conduct warranted detention and that decision should not be disturbed on appeal.

CONCLUSION

For the reasons stated above, the decision on the trial court to detain the defendant should be Affirmed.

Respectfully submitted,

Kristin J. Telsey
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