

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

STATE OF MISSOURI,	)	
	)	
Plaintiff,	)	
	)	Cause No. 23SL-CR01054-01
vs.	)	
	)	
JASON HANDLEY,	)	Div. 21
	)	
Defendant.	)	

AMENDED MOTION FOR BOND REDUCTION

COMES NOW, Defendant, by counsel, Jordan Wellinghoff, and pursuant to Missouri Supreme Court Rule 33.01 et seq. and RSMo. 552.020.4, moves this Honorable Court to reduce Defendant's bond from no bond to \$50,000 with 10% authorized. In support of this motion amending the Motion for Bond Reduction filed on January 10, 2024, counsel for Defendant states as follows:

I. Background

1. Mr. Handley is charged by indictment with one count of making a terroristic threat in the first degree. The single charge stems from an incident that is alleged to have occurred on or about January 11, 2023.

2. Mr. Handley's bond was reduced on March 1, 2023, to \$50,000 with 10% authorized. Then, the Court imposed several conditions of his bond: (1) EDH bracelet with GPS; (2) exclusion zone of 1,000 feet of Parkway North High School; (3) no firearms or weapon; (4) no drugs; (5) reside with Eric Handley at 1610 Bay Meadows; (6) Eric Handley shall supervise defendant as directed by the Court; (7) no internet

access; (8) no computer access; (9) can only leave house for court or medical appointments.

3. Mr. Handley was successfully activated with EDH/GPS through Missouri Alternative Pre-Trial Services (“MAPTS”).

4. Mr. Handley failed to appear for his initial appearance in Division 21 on June 15, 2023. The Court issued a warrant and set bond at \$50,000 cash only, no 10% authorized. On that same day, counsel for Mr. Handley made an oral motion to recall the warrant due to counsel’s error. The motion was denied.

5. On June 23, 2023, MAPTS filed a “Status Report Notification” stating, “The defendant was activated with an EHD/GPS device on March 1st, 2023. Since then, the defendant has remained in compliance with MAPTS EHD/GPS program.”

6. On June 27, 2023, the Court ordered a psychological evaluation pursuant to RSMo. 552.020.

7. On July 14, 2023, the Court heard Defendant’s amended motion for bond reduction. There, the Court sua sponte modified Defendant’s bond to no bond allowed.

8. On July 24, 2023, the Court granted the Department of Mental Health’s (“DMH”) motion for extension of time, giving DMH until January 18, 2024 to complete and submit their report.

9. On January 24, 2024, DMH filed its Forensic Evaluation (“Evaluation”).

II. Department of Mental Health Forensic Evaluation

10. In the Evaluation’s “Adjudicative Competency” section, Bridget A. Graham, Psy.D. provided an opinion as to Defendant’s competency:

[I]t is the examiner's opinion within a reasonable degree of psychological certainty that as a result of the mental defects intellectual developmental disorder (intellectual disability) – mild and autism spectrum disorder, the defendant lacks the capacity to understand the proceedings against him and to assist his attorney in his defense. *Forensic Evaluation*, January 24, 2024 at 12-13.

11. The Evaluation's "Need for Hospitalization" section first states, "the defendant will not require psychiatric hospitalization, as he does not have acute care needs that require inpatient treatment at this time." *Id.* at 13. In the next paragraph, the examiner concludes Defendant will need psychiatric hospitalization "if the Court concurs with the examiner's opinion" Defendant is incompetent to proceed. *Id.*

III. Independent Psychiatric Evaluation

12. On October 25, 2023, Jarrod Holiday, M.D., Assistant Professor of Psychiatry at the Washington University School of Medicine, performed an Independent Psychiatric Evaluation of Defendant ("Independent Evaluation"). The Independent Evaluation is attached as Exhibit A. The Independent Evaluation was sent to counsel for Defendant on November 20, 2023.

13. The Independent Evaluation opinion is somewhat similar to the DMH Evaluation opinion:

- A. "It is my opinion, to within a reasonable degree of medical certainty that due to his Intellectual Disability Mr. Handley does not have the capacity to understand the proceedings against him and assist in his own defense." *Independent Evaluation*, November 20, 2023 at 7.
- B. "It is also my opinion...that Mr. Handley will not be mentally fit to proceed in the reasonably foreseeable future... He does not require

emergent psychiatric hospitalization at this time... [He] may be treated in the community with the appropriate bond conditions set forth by the court.” *Id.*

IV. State v. Matthew McCulloch (23SL-CR09664-01)

14. On November 8, 2023, the Grand Jury returned an indictment charging Matthew McCulloch (“McCulloch”) with six counts of endangering the welfare of a child in the first degree, one count of making a terrorist threat in the first degree, one count of unlawful use of a weapon – subsection 4, and seven counts of armed criminal action.

15. McCulloch’s bond was set at \$500,000 cash only.

16. On January 2, 2024, Judge Ribauda granted defendant’s motion for bond reduction, and set defendant’s bond at \$250,000 with 10% authorized. Defendant is ordered to report to CenterPointe Hospital for in-patient treatment. At the hearing, the State noted that the average stay at CenterPointe is 7-10 days. Once defendant is released from his brief stay at CenterPointe, he will be subject to GPS and EHD with a requirement of continued out-patient treatment. The Order was attached as Exhibit A to the Motion for Bond Reduction filed January 10, 2024.

V. Comparing McCulloch and Handley

A. Handley

17. According to Mr. Handley’s probable cause statement, it is alleged Mr. Handley posted photographs and videos to an Instagram account donning captions such as “I hate Parkway students, they were laughing at me”, “now I have a gun”, “I’m a school shooter.” It is further alleged that one video showed Mr. Handley shooting a

handgun. The indictment charged Mr. Handley with committing these acts on or about January 11, 2023, but a criminal complaint was not filed until February 10, 2023.

18. A Florissant Police Department report reflects that on November 17, 2022, Defendant's father voluntarily surrendered a firearm to law enforcement.

19. Additionally, in response to a subpoena duces tecum, it was discovered that the principal of Parkway North High School sent out an email to [REDACTED] on October 26, 2022. The email indicates that there was "a rumor about a possible threat to our school posted online." The email discusses a full investigation with the police department and "*they were able to determine...that this threat was unsubstantiated.*" (Emphasis added). Importantly, "*They have no reason to believe that there was ever a threat to the safety of our school.*" (Emphasis added). This email was attached as Exhibit B to the Motion for Bond Reduction filed January 10, 2024.

20. Also, on January 12, 2023, a similar email was sent to [REDACTED]. The email indicates that the information in the posts were "*originally posted several months ago and investigated by police at that time.*" Apparently, the posts re-surfaced overnight...St. Louis County Police visited the home and made contact with the individual and his parents/guardians. It has been determined that "*there is no credible threat to our students or staff and our school is safe.*" (Emphasis added). This email was attached as Exhibit C to the Motion for Bond Reduction filed January 10, 2024.

21. Mr. Handley is a young black male with an IEP. Mr. Handley's family is not well-connected within the St. Louis area.

B. McCulloch

22. According to Mr. McCulloch's probable cause statement, it is alleged McCulloch attended a Trunk or Treat event on October 15, 2023. It is alleged hundreds of children and adults were present. It is alleged he began harassing attendees and made statements such as, "You are all going to die." One of the attendees shoved Mr. McCulloch, at which time he began shooting his firearm into the air approximately a dozen times while shouting that the attendees would die. Mr. McCulloch had to be tackled and disarmed by victims/witnesses. A criminal complaint was filed the following day.

23. Unlike Mr. Handley, Mr. McCulloch is a well-connected white male who was employed by the St. Louis County Police department for several years. Mr. McCulloch is the son of Robert McCulloch, who was the Prosecuting Attorney of St. Louis County from 1991 to 2019.

VI. Conclusion – Rule 33, Equal Treatment, and RSMo. 552.020.4

24. The difference in severity between Handley's case and McCulloch's case is clear. The disparate treatment between these two defendants is also clear.

25. Accordingly, the Court should grant this motion pursuant to Missouri Supreme Court Rule 33.01 and equal treatment.

26. Additionally, RSMo. 552.020.4 allows the Court to grant a bond to a defendant found incompetent to proceed with trial: "the court shall order that the accused

remain on bond while receiving treatment until the case is disposed of as set forth by subsection 12[.]” This portion of the statute refers to subsection 3, which details what must be in an examination report. RSMo. 552.020.3(8)(a)-(c) requires a recommendation of committing a defendant to a “suitable hospital facility,” or “a recommendation as to whether the accused...[m]ay be appropriately treated in the community; and [i]s able to comply with bond conditions...and is able to comply with treatment conditions[.]”

27. The Evaluation does not contemplate whether Defendant would be able to simultaneously comply with bond and treatment conditions. The Evaluation merely concludes, without reason, that Defendant will require psychiatric hospitalization. However, the Evaluation is clear that Defendant does not have acute care needs that require inpatient treatment at this time.

28. The Independent Evaluation contemplates RSMo. 552.020.3(8)(c) by noting Defendant does not require immediate hospitalization and “may be treated in the community with appropriate bond conditions[.]” *Independent Evaluation* at 7.

29. Accordingly, the Court should grant this motion pursuant to RSMo. 552.020.4.

WHEREFORE, Defendant respectfully requests this Honorable Court grant Defendant’s motion and set bond at \$50,000 with 10% authorized, any other conditions this Court deems necessary to ensure the safety of victims, witnesses, and community, and to also Order, as a condition of bond, to comply with treatment conditions and requirements as set forth by the director of DMH.

Respectfully Submitted,

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Certificate of Service

I hereby certify that on this 25th day of January, 2024, an electronic copy of the foregoing was sent through the Missouri e-filing system to counsel of record.

/s/ Jordan Wellinghoff
Jordan Wellinghoff