Fifth Circuit Court of Appeal
State of Louisiana

No. 26-K-85

STATE OF LOUISIANA
VERSUS
KEITH EZIDORE

IN RE KEITH EZIDORE
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-THIRD JUDICIAL DISTRICT COURT, PARISH OF ST JAMES, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE STEVEN C. TUREAU, DIVISION "D", No. 92,1983

April 13, 2026

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Timothy S. Marcel

WRIT DENIED

Relator, Keith Ezidore, seeks review of the district court's February 15, 2026, ruling setting his bond at $1,000,000, an amount Relator challenges as excessive. For the following reasons, we deny this writ application.

Procedural Background

On January 21, 1993, Relator and his co-defendant, Larry Walker, were found guilty by a jury of second-degree murder in violation of La. R.S. 14:30.1. The trial court subsequently sentenced Relator to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.[1] On July 16, 2025, this Court vacated Relator's conviction and life sentence for *Brady*[2] violations and remanded the cause for a new trial. Specifically, on Relator's post-conviction relief application, this Court found that the State's non-disclosure of

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[1] Relator's 1993 conviction and sentence were affirmed by this Court on January 31, 1995. *State v. Walker and Ezidore*, 93-632 (La. App. 5 Cir. 1/31/95), 650 So.2d 363. The Louisiana Supreme Court denied Relator's writ application on January 31, 1995. *State v. Ezidore*, 95-545 (La. 6/23/95), 656 So.2d 1013.

[2] *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

impeachment material precluded the defense from effectively cross-examining the State's star witness, Torrey Burnett, "the only witness to identify relator in a case in which there was no physical evidence linking relator to the murder." *See Ezidore v. Hooper*, No. 25-56, 2025 WL 1951197 (La. App. 5 Cir. July 16, 2025)(*reh'g denied* Aug. 13, 2025). On December 11, 2025, the Louisiana Supreme Court denied the State's writ application. *Ezidore v. Hooper*, 25-1161 (La. 12/11/25), 424 So.3d 664 (*per curiam*).

Following this Court's decision vacating his conviction and sentence and remanding for a new trial, Relator filed a motion to hold a bail hearing on August 21, 2025. The trial court granted the motion, scheduling a bail hearing for October 14, 2025. Before the scheduled bail hearing, on October 8, 2025, the trial court granted the State's motion to stay proceedings and vacated the order for a bail hearing pending a disposition of its writ application to the Louisiana Supreme Court from this Court's July decision.

On December 11, 2025, the date on which the Louisiana Supreme Court issued its writ denial, Relator filed an Expedited Motion to Lift Stay
and Hold a Bail Hearing in the district court. The following day, on December 12, 2025, the Louisiana Supreme Court granted Relator's pending writ application from the district court's order staying his motion to set bail and ordered "the matter is remanded to the district court for a bail hearing pursuant to La. C.Cr.P. art. 930.5(B)." *Ezidore v. Hooper*, 25-1495 (La. 12/12/25), 424 So.3d 668 (*per curiam*). On December 16, 2025, the district court scheduled a bail hearing for January 12, 2026.

The State filed its opposition to Relator's motion to set bail on January 9, 2026, arguing that Relator "is an imminent danger to the community." In the alternative, the State requested that the district court set "an amount commensurate with the serious nature of the offense and the Defendant's extensive criminal history of committing crimes of violence," which included a 1972 conviction for manslaughter.[3]

Relator's bail hearing was held over a two-day period January 12, 2026, and February 9, 2026. At the January 12, 2026 hearing, the defense called four witnesses, Lashona Duhe, Mick Kligler, Stephen Mayronne, and Richard Davis, and introduced several documentary exhibits. Relator's daughter, Lashona Duhe, testified that Relator would be allowed to live with her if released and she would provide him with transportation to court appearances. The next witness called was Mick Kligler, a social worker employed by Innocence & Justice Louisiana. Mr. Kligler described the reentry plan for Relator's release and testified to the seventy-three-year old's physical condition and chronic health conditions. The defense then called Stephen Mayronne,

[3] According to relator's rap sheet submitted by the State, relator received a nine-year sentence for his 1972 manslaughter conviction and was released on parole in 1974.

a physical therapist at the Louisiana State Penitentiary, who testified about Relator's mobility issues and treatment program. The last witness called by the defense on January 12, 2026, was Richard Davis, the legal director at Innocence & Justice Louisiana, who also represented Relator as part of the defense team. Mr. Davis testified to his communications with Torrey Burnett, the State's main witness at Relator's 1993 trial. In his testimony, Mr. Davis described text messages in which Mr. Burnett described being "threatened not to say anything" regarding the case.

Finally, Relator introduced the following exhibits into evidence:[4] (1) affidavits from two formerly incarcerated individuals, Daryl Waters and Jerry Davis, who met Relator in prison and offered their support to Relator upon his release on bail; (2) Relator's annual assessment and conduct report completed by the Department of Corrections (DOC); and (3) a letter of recommendation from Burl Cain, the then-warden of the Louisiana State Penitentiary, dated February 4, 2010, upgrading Relator's trustee status based on his good conduct record. The district court then recessed the proceeding until February 9, 2026.

At the outset of the second day of the bail hearing, February 9, 2026, the defense rested. The State called Captain Dicharry as its sole witness. Captain Dicharry testified that he was a juvenile officer with the St. James Parish Sheriff's Office in 1991. During direct examination, Captain Dicharry described the statements he took from Mr. Burnett during his investigation and further denied telling Mr. Burnett what to say in the statements which implicated Relator in the instant offense. Captain Dicharry also denied threatening Mr. Burnett with violence, physical intimidation, or legal consequences before or after the statements were made. The State also introduced the following exhibits into evidence: (1) Mr. Burnett's three recorded statements from 1991; (2) Relator's arrest warrant; and (3) Relator's rap sheet. Transcripts from Mr. Burnett's juvenile court proceedings and the *Miranda* rights form from October 1991 were introduced into evidence by Relator.

At the close of the hearing, Relator requested a bail amount no higher than $25,000, based on the weakness of the State's case, his age, frail condition, and his strong ties to the community. In turn, the State requested that the district court deny bail or set an amount no less than one million dollars with GPS ankle monitoring and home incarceration given that Relator was under indictment for second-degree murder with a prior manslaughter conviction. Following arguments from both sides, the district court took the matter under advisement.

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[4] In addition, Relator's medical records, a letter from The First 72+, a support organization for individuals recently released from prison, and a December 30, 1991 investigative report and witness statements regarding Mr. Burnett's role in an armed robbery, were proffered by Relator.

On February 15, 2026, the district court issued its ruling, finding that Relator was entitled to bail and set the bond at $1,000,000, "to ensure the Defendant's appearance and to protect the safety of the community." Specifically, the district court gave "particular consideration to the seriousness of the charged offense and the Defendant's violent criminal history, while also taking into account mitigating factors, including the Defendant's advanced age, his medical conditions, and the support services that would be available to him if released on bond."

On February 22, 2026, Relator timely filed a notice of intent with the district court, which set a return date of March 17, 2026. This writ application was filed on February 27, 2026.

Discussion

The Eighth Amendment to the United States Constitution provides that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Article I, § 18 of the Louisiana Constitution provides, in part, "Excessive bail shall not be required. Before and during a trial, a person shall be bailable by sufficient surety, except when he is charged with a capital offense and the proof is evident and the presumption of guilt is great." However, Paragraph B of La. Const., Art. I, § 18, in pertinent part, provides:

> [A] person charged with a crime of violence as defined by law …, and the proof is evident and the presumption of guilt is great, shall not be bailable if, after a contradictory hearing, the judge or magistrate finds by clear and convincing evidence that there is a substantial risk that the person may flee or poses an imminent danger to any other person or the community.

When determining bail, a trial court is directed to the factors listed in La. C.Cr.P. article 316, which provides as follows:

> The amount of bail shall be fixed in an amount that will ensure the presence of the defendant, as required, and the safety of any other person and the community, having regard to
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> (1) The seriousness of the offense charged, including but not limited to whether the offense is a crime of violence or involves a controlled dangerous substance.
> (2) The weight of the evidence against the defendant.
> (3) The previous criminal record of the defendant.
> (4) The ability of the defendant to give bail.

> (5) The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.
> (6) The defendant's voluntary participation in a pretrial drug testing program.
> (7) The absence or presence in the defendant of any controlled dangerous substance.
> (8) Whether the defendant is currently out on a bail undertaking on a previous felony arrest for which he is awaiting institution of prosecution, arraignment, trial, or sentencing.
> (9) Any other circumstances affecting the probability of defendant's appearance.
> (10) The type or form of bail.

In the instant case, the district court provided an analysis of the La. C.Cr.P. art. 316 factors in setting Relator's bail at $1,000,000. First, the district court stated that "the extremely violent nature of the offense charged," in which the victim was stabbed approximately twenty times, "weighed heavily against the Defendant." With respect to the weight of the evidence, the district court recognized that Relator presented "extensive testimony and evidence" discrediting Mr. Burnett, the State's main witness, but also pointed out that Mr. Burnett declined to testify at the bail hearing. Additionally, the district court pointed out that Captain Dicharry denied threatening Mr. Burnett. Next, regarding Relator's criminal history, the district court considered Relator's 1972 manslaughter conviction and "multiple arrests for violent offenses," which occurred before the instant offense.[5] As for Relator's ability to make bail, the district court indicated that while no testimony was presented to that effect, Relator had asserted he was "poor" and unable to work in prison given his "no duty" status due to his health conditions. Next, the district court found that Relator's age and medical condition "minimized" the danger to any other person or the community but emphasized that Relator's prior manslaughter conviction and "violent arrests," including an arrest for aggravated assault and a parole violation, indicated that Relator "has had a violent history." Finally, with respect to any other circumstances affecting the probability of Relator's appearance,[6] the district court stressed that Relator's advanced age and medical condition raised a "substantial concern" regarding his ability to appear for court hearings but acknowledged that Relator's daughter and Mr. Kligler testified as to their commitment to Relator's care and transportation to court hearings if he was released on bond. In setting Relator's bond at $1,000,000, the district court

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[5] According to Relator's rap sheet, the arrest date for the manslaughter offense occurred on October 20, 1972.

[6] The district court found that the drug-related factors set out in La. C.Cr.P. art. 316(6) and (7) were inapplicable to the instant case. The district court also found that La. C.Cr.P. art. 316(8) was inapplicable because Relator was not currently out on bail.

stated that the amount was "reasonable and appropriate to ensure the Defendant's
appearance and to protect the safety of the community."

In reviewing the bail fixed in this matter, the district court is afforded great discretion, as the district court is intimately familiar with the evidence and any other relevant factors for which bail may be fixed. *State v. Session*, 19-1705 (La. 10/25/19), 280 So.3d 1158. The Louisiana Supreme Court and this Court have held that the standard of review for setting bail is whether the trial court abused its discretion. *See State v. Halverson*, 21-1592 (La. 12/21/21), 329 So.3d 276, 277; *State v. Gordon*, 24-93 (La. App. 5 Cir. 3/19/24) (unpublished writ disposition), *writ denied*, 24-493(La. 6/25/24), 386 So.3d 1077. *See also State v. Session*, 19-1705 (La. 10/25/19), 280 So.3d 1158 (Crichton, J., additionally concurring) ("[W]e afford discretion to district courts in fixing bail, as the district court is intimately familiar with the evidence against defendant and any other relevant factors for which bail may be fixed, *see* [La.] C.Cr.P. art. 316[.]").

In a somewhat analogous case, *Gordon*, *supra,* the defendant sought review of the trial court's judgment denying his motion to reduce bond. In 2016, the defendant was initially indicted for second-degree murder with bail set for $300,000. In 2019, he was found guilty of the lesser offense of manslaughter by a non-unanimous jury necessitating a retrial under *Ramos v. Louisiana*, 590 U.S. 83, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020). After the State subsequently indicted the defendant on manslaughter, the defendant moved to set bail which Judge Stromberg fixed at $500,000. The defendant later moved to reduce the bail amount, citing his inability to pay, strong community support, and willingness to comply with conditions. However, Ad Hoc Judge LeBlanc denied the request, citing the seriousness of the offense, the defendant's criminal history, and witness safety concerns. This Court concluded that, on the showing made, the district court did not abuse its discretion in denying the defendant's motion to reduce bail.[7] To the extent the motion could be construed as a review of the bail set by Judge Stromberg, this Court emphasized that "the district court is intimately familiar with the evidence against Defendant and any other relevant factors for which bail may be fixed." *Gordon*, 24-93 (citing *Session*, 280 So.3d 1158).

The Eighth Amendment mandates that when bail is granted, it may not be unreasonably high in light of the government's purpose for imposing bail. *See United States v. Salerno*, 481 U.S. 739, 754, 107 S.Ct. 2095, 2105, 95 L.Ed.2d 697 (1987). In Relator's view, the district court set an excessive bail amount given that his prior bail amount for

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[7] On review in the supreme court, Judge Griffin dissented, stating: "Questioning the incongruity of the significant increase in bail considering the lesser indicted offense, I would grant the writ." *Gordon*, 386 So.3d at 1078.

the same offense in 1992 was $300,000.[8] As support for his assertion, Relator points out that his criminal history, relied upon by the district court in setting the bail at $1 million, has remained unchanged since his bail was set following his 1991 arrest for the same offense. However, his prior conviction for manslaughter is now over fifty years old. Furthermore, the parole violation mentioned by the district court in its ruling occurred on April 17, 1979, but Relator's rap sheet indicates that he was reinstated on parole on April 26, 1979. In addition, Relator's last arrest for a violent offense, aggravated battery in violation of La. R.S. 14:34, occurred on February 13, 1990, over thirty years ago, when he was thirty-eight years old. While the State argued that Relator's violent criminal history "only came to an end after he was incarcerated," Relator, who is seventy-three years old, received the lowest possible risk score according to his 2024 assessment conducted by the DOC.[9] Relator further stressed that his last disciplinary infraction was in 2003.

In his writ application, Relator also relies on this Court's recent decision in *State v. Neal*, No. 25-158, 2025 WL 1431585 (La. App. 5 Cir. May 19, 2025), in which the defendant was originally found guilty of two counts of first-degree murder in violation of La. R.S.14:30, and sentenced to death. Approximately twenty years later, his writ of habeas corpus was granted in federal court on grounds of trial and post-conviction counsels' ineffectiveness, and his convictions and sentences were ordered to be set aside. In granting the writ application, this Court vacated the district court's judgments raising the defendant's bail and remanded the matter for further proceedings consistent with the disposition. *Id.*

We find *Neal* distinguishable from the instant case. The question presented in *Neal* was an unexplained order increasing the previously set bail amount. In this case, the issue is whether the trial court abused its broad discretion in fixing Relator's initial bail post vacatur. "La C.Cr.P. art. 316 makes clear the court has two considerations when affixing the appropriate amount of bail: the safety of the community and ensuring the presence of the defendant in court." *Neal*, 2025 WL 1431585, at *3. In this instance, Relator is charged with second-degree murder (the victim was fatally stabbed approximately twenty times), a violent felony that carries severe penalties. In its reasons, the district court did not rely on specific threats to the victim's family, as suggested by Relator, but on overarching community safety concerns and Relator's history, emphasizing his prior manslaughter conviction and "violent arrests," including an arrest for aggravated assault and a parole violation. Also, the record shows the district court carefully considered Relator's age and health as mitigating factors but was particularly concerned with Relator's violent crime history and the seriousness of

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[8] According to relator, when adjusted for inflation, "the 1992 bail of $300,000 would be $688,121.30 in 2026."

[9] Mr. Kligler explained that the TIGER risk score "is an algorithm that the Department of Corrections uses to determine an individual's risk of recidivating."

the charged offense and the risks posed to the community. We find no error in the district court's reasoning. The very nature of the charged offense--second-degree murder--implicates risks to public safety. Additionally, the district court expressed concern with Relator's ability to regularly appear for court proceedings. On review, we do not find this concern unreasonable.

Finally, Relator argued that his bail amount is excessive and he cannot afford the $1,000,000 bail. While financial hardship is a relevant consideration under La. C.Cr.P. art. 316, it is only one of the factors to be weighed in fixing bail. Given that limited evidence was presented at the bail hearing regarding Relator's financial status, we find no abuse in the district court giving little weight to this factor. Relator also suggests, alternatively, that his bail should be lowered to an inflation-adjusted equivalent of his 1992 bail. We disagree. After considering all the factors, the district court set bail at $1,000,000, an amount reasonably calculated to ensure public safety and appearance at court. We find no abuse of discretion.

Accordingly, Relator's writ application is denied.

Gretna, Louisiana, this 13th day of April, 2026.

TSM
SMC

Fifth Circuit Court of Appeal
State of Louisiana

NO. 26-K-85

STATE OF LOUISIANA

VERSUS

KEITH EZIDORE

WICKER, J., DISSENTS WITH REASONS

I respectfully dissent from the majority's opinion affirming the district court's decision fixing bail for Mr. Ezidore at ONE MILLION ($1,000,000) DOLLARS. Although the majority correctly observes that a district court is vested with great discretion in fixing bail, in my opinion, the bail set by the district court is excessive, under both the Eighth Amendment to the United States Constitution and La. Const. Art. 1, § 8 of the Louisiana Constitution, under the circumstances presented.

La. C.Cr.P. art. 930.5 provides:

> A. If a court grants relief under an application for post conviction relief, the court shall order that the petitioner be held in custody pending a new trial.
>
> B. In such a case, **the petitioner shall be entitled to bail on the offense as though he has not been convicted of the offense**.

(Emphasis added).

La. C.Cr.P. art. 312, entitled "Right to bail before and after conviction," provides, in pertinent part:

> A. Except as provided in this Article and Article 313, a person in custody who is charged with the commission of an offense is entitled to bail before conviction.

La. C.Cr.P. art. 313, entitled "Gwen's Law; bail hearings; detention without bail," provides, in pertinent part:

> B. Upon motion of the prosecuting attorney, the judge or magistrate may order the temporary detention of a person in custody who is charged with the commission of an offense, for a period of not more than five days, exclusive of weekends and legal holidays, pending the conducting of a contradictory bail hearing. **Following the contradictory hearing, upon proof by clear and convincing evidence either that there is a substantial risk that the defendant might flee or that the defendant poses an imminent danger to any other person or the community, the judge or magistrate may order the defendant held without bail pending trial.**

In *State v. Chester,* 18-K-504 (La. App. 5 Cir. 9/6/18), 2018 WL 4265657 (unpublished opinion), the relator had been convicted on first degree murder in 1997 and sentenced to death. His conviction became final in 1998 when the Louisiana Supreme Court affirmed his conviction and sentence. *State v. Chester,* 97-2790 (La. 12/1/98), 724 So.2d 1276. Subsequently, relator's conviction and sentence were overturned. *Chester v. Vannoy,* (E.D. La. 6/11/18), 2018 WL 2970912 (unpublished opinion). Thereafter, the State amended the grand jury indictment to charge relator with second degree murder to which relator pled not guilty. Relator's Motion for Bail was denied by the district court, without conducting a contradictory hearing. There, we stated:

> Relator is now charged with second degree murder, a crime of violence as defined in La. R.S. 14:42(B). Therefore, in the present case, in accordance with La. Const. Art. 1, § 18 and La. C.Cr.P. arts. 312 and 313(B), relator may be held without bail pending trial **only if,** *after a contradictory hearing,* the proof is evident and the presumption of guilt is great **and the trial court finds by clear and convincing evidence that there is a substantial risk that relator may flee or poses an imminent danger to any other person or the community.**

2018 WL 4265657 at *2. (Bold emphasis added; italics in original).

Mr. Ezidore's conviction and sentence have been overturned. Under the foregoing articles, he is entitled to bail, as if the original conviction had never occurred, unless, after a contradictory bail hearing, there is a finding that clear and

convincing evidence has been produced demonstrating that Mr. Ezidore is a substantial risk that he would flee if bail were granted and/or that he poses an imminent danger to a person or the community.

Bail must be set according to the factors listed in La. C.Cr.P. art. 316. *State v. Halverson*, 21-1592 (La. 12/21/21), 329 So.3d 276, 277; *State v. Neal*, 25-158 (La. App. 5 Cir. 5/19/25), 2025 WL 1431585 (unpublished opinion). La. C.Cr.P. art. 316 provides:

> **The amount of bail shall be fixed in an amount that will ensure the presence of the defendant, as required, and the safety of any other person and the community**, having regard to:
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> (1) The seriousness of the offense charged, including but not limited to whether the offense is a crime of violence or involves a controlled dangerous substance.
>
> (2) The weight of the evidence against the defendant.
>
> (3) The previous criminal record of the defendant.
>
> (4) The ability of the defendant to give bail.
>
> (5) The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.
>
> (6) The defendant's voluntary participation in a pretrial drug testing program.
>
> (7) The absence or presence in the defendant of any controlled dangerous substance.
>
> (8) Whether the defendant is currently out on a bail undertaking on a previous felony arrest for which he is awaiting institution of prosecution, arraignment, trial, or sentencing.
>
> (9) **Any other circumstances affecting the probability of defendant's appearance.**
>
> (10) The type or form of bail.

(Emphasis added).

Discussion of Article 316 Considerations

Consideration No. 1 Seriousness of the Charged Offense

Mr. Ezidore is charged with second-degree murder, a violation of La. R.S. 14:30.1, and a crime of violence, which carries a mandatory life sentence. Additionally, the district court described the crime as having been particularly brutal. Even so, in 1991 the district court fixed bail at $300,000.

Consideration No. 2 Weight of the Evidence

The evidence against Mr. Ezidore is weak. In the first trial, there was no physical evidence linking Mr. Ezidore to the crime. Mr. Ezidore was convicted largely on the testimony of Mr. Torrey Burnette, who was fifteen at the time of Mr. Ezidore's trial in 1991. Mr. Burnett was the only witness who linked Mr. Ezidore to the crime when he testified more than thirty years ago. Mr. Burnette has since recanted and claimed that his testimony was secured through threats and intimidation by Captain Brent Dicharry, who had arrested him for juvenile offenses on several occasions. Capt. Dicharry has denied the allegations, but Mr. Burnett has stated on more than one occasion that he never had any information linking Mr. Ezidore with the crime. Without the testimony of the State's primary witness against Mr. Ezidore, there is a strong possibility that Mr. Ezidore will be found innocent at his retrial.

Consideration No. 3 Previous Criminal Record

Pursuant to La. C.Cr.P. article 930.5(B), Mr. Ezidore's overturned conviction for second degree murder cannot be considered in setting bail for a retrial. Mr. Ezidore's only other felony conviction occurred in 1972, more than fifty years ago. The conviction was for manslaughter. Mr. Ezidore was a teenager at the time of conviction. Although the district court relied on previous arrests, without charges or convictions, as evidence of Mr. Ezidore's violent criminal history, the arrests on which the district court relied pre-date the charge of second-degree murder by decades. Mr. Ezidore's record of acts of violence while incarcerated for the last thirty-four years – there were none – is a better indicator of violent tendencies now.

The last time Mr. Ezidore was written up for *anything* while in prison was in 2004 and that violation did not involve violence. He has been an exemplary prisoner. In 2010, he was made a

Class A trustee. He also has the lowest possible risk assessment score from the Department of Corrections.

Additionally, Mr. Ezidore is seventy-three years old and suffers from multiple chronic debilitating ailments and health conditions. His mobility is severely limited. He resides in a specially designated medical dormitory at the prison. He uses a wheelchair and requires a rollator to walk. Mr. Ezidore's activities are severely impaired. It is highly doubtful that Mr. Ezidore has the physical ability to commit a violent act against anyone.

Consideration No. 4 The Ability to Give Bail

Mr. Ezidore's health conditions have made it impossible for him to work within the prison where his wages would, in any event, be capped at twenty cents per hour. He has been incarcerated for more than thirty years. Mr. Ezidore has no ability to post bail of any significant amount.

Consideration No. 5 The Nature and Seriousness of the Danger to a Person or the Community that Would be Posed by Mr. Ezidore's Release

As has been discussed, Mr. Ezidore is seventy-three years old and has serious health problems that limit his mobility and his daily activities. Mr. Ezidore's age and health conditions make it nearly impossible for him to be found to be a threat to the community at large.

The district court found, and the majority apparently agrees, that Mr. Ezidore *could* pose a threat to the family of the alleged victim. This finding is devoid of report support in the record. There is no evidence that Mr. Ezidore threatened the alleged victim's family in conjunction with his first trial, or that he ever tampered with or attempted to tamper with any witnesses.

Despite the serious nature of the crime with which Mr. Ezidore is charged, there is nothing in the record of the first trial nor was any presented at the bail hearing, that Mr. Ezidore currently poses any threat to anyone.

Consideration No. 6 Willingness of Defendant to Voluntarily Participate in a Pre-Trial Drug Testing Program

Consideration No. 7 The Absence or Presence in the Defendant of any Controlled Dangerous Substance

Mr. Ezidore has informed the court that he will willingly participate in a pre-trial drug testing program, even though no evidence has been presented that Mr. Ezidore is an illegal drug user.

Consideration No. 8 Whether the Defendant is Currently out on Bail on a Previous Felony Arrest for Which he is Awaiting Institution of Prosecution, Arraignment, Trial, or Sentencing

This factor does not apply to Mr. Ezidore.

Consideration No. 9 Other Circumstances Affecting the Probability of Defendant's Appearance

Mr. Ezidore's age, health conditions, the fact that he has been incarcerated for more than thirty years and the recantation of the sole witness who could connect Mr. Ezidore with the crime have been discussed above. Without the testimony of Mr. Burnette, the State's case against Mr. Ezidore is weak, and there is a strong possibility that he will be acquitted at a retrial.

The evidence showed that Mr. Ezidore has strong connections with his daughter and his grandchildren. His daughter will provide him with a place to live, see that he takes his medications, make his doctor's appointments, keep track of his court dates, and see that he appears as required in court. At least one of his grandchildren has also volunteered to help with getting Mr. Ezidore to court for his appearances.

As Mick Kligler, a licensed social worker employed by Innocence & Justice Louisiana, testified, Mr. Ezidore has an individualized plan for reentry, including enrollment in public benefits. Innocence & Justice Louisiana will assist Mr. Ezidore with reentry and will also keep track of Mr. Ezidore's court dates and assist him in making his court appearances.

The test for excessiveness of bail is whether it has been set higher than reasonably calculated to guarantee the appearance of the accused in court. *Foster v. Louisiana Dept. of Corrections*, 382 So.2d 986 (La. App. 1st Cir. 1980). No evidence was introduced at the bail hearing to suggest that Mr. Ezidore will not appear in court when required. There was no evidence that a far lower bail would cause him to fail to appear. The evidence only demonstrated that Mr. Ezidore will be denied bail at all if bail is fixed at one million dollars.

Consideration 10 The Type or Form of Bail

Mr. Ezidore is seeking bail after serving more than thirty years in prison, after his conviction and sentence were overturned on an application for post-conviction relief. La. C.Cr.P. art. 930.5(B) provides that if a court grants relief under an application for post-conviction relief, the petitioner shall be entitled to bail on the offense as though he had not been convicted of the offense. In this case, the fixing of bail at one million dollars is tantamount to a denial of bail and, under the circumstances of this case was, in my opinion, an abuse of discretion. I would grant Mr. Ezidore's writ application and remand the matter to the district court with instructions to fix bail in an amount not to exceed $100,000.

For all of the foregoing reasons, I respectfully dissent.

FHW

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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **04/13/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

26-K-85

E-NOTIFIED
23rd Judicial District Court (Clerk)
Honorable Steven C. Tureau (DISTRICT JUDGE)
Elena Malik (Relator)
J. Taylor Gray (Respondent)
Richard M. A. Davis (Relator)

MAILED
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