

**Findings and Order Regarding Bail, including COVID-19 factors**

**Docket No.**

**Trial Court of Massachusetts  
The Superior Court**

Commonwealth v. \_\_\_\_\_

County \_\_\_\_\_

Bail set at arraignment     Petition for review of bail     Review of bail set by magistrate     Changed circumstances  
Other: \_\_\_\_\_.

After hearing, at which the Commonwealth requested \_\_\_\_\_,  
and the defendant requested \_\_\_\_\_,

- the defendant is released on personal recognizance.
- bail is set at \$ \_\_\_\_\_ cash, or \$ \_\_\_\_\_ surety,
  - with conditions stated on the Order of Pretrial Conditions of Release. See Bail Findings, below.
- the petition for review of bail is denied.

This decision is without prejudice to reconsideration, on a further showing of: \_\_\_\_\_.

**Dangerousness**

- 58A motion filed.** The Commonwealth has moved to detain the defendant as dangerous, under G. L. c. 276, § 58A. After a hearing, I find there are conditions of release, including considerations of bail, that will reasonably assure the safety of other persons and the community, and that will reasonably assure the defendant's appearance at future court proceedings. See § 58A Findings and Order form.
- No 58A motion filed.** The Commonwealth has not moved to detain the defendant as dangerous, under § 58A. Therefore, in setting bail, I have not considered whether release of the defendant will endanger the safety of any other person or the community.

**Bail Findings**

The Commonwealth has rebutted the presumption of the defendant's release on personal recognizance, according to the factors stated in G. L. c. 276, §§ 57, 58, or 58A, as appropriate; no non-financial conditions of release alone will adequately assure the defendant's future appearance before the court; and setting bail is necessary to assure the defendant's appearance at future court proceedings. Duration of pretrial incarceration to date: \_\_\_\_\_

**Amount defendant can afford**

The defendant has the ability to post bail in the amount of \$ \_\_\_\_\_ cash, based on the following (check all that apply):

- the defendant is indigent
- Probation Service intake
- representations of (e.g., defendant, defense counsel) \_\_\_\_\_
- the defendant's financial resources, including income and net assets, and financial obligations, including the amount necessary to meet minimum basic human needs such as food, shelter, and clothing for the defendant and his or her dependents
- other: \_\_\_\_\_
- I have not been presented with sufficient credible information to determine the amount of bail the defendant can post.
- the amount the defendant can afford is sufficient to assure the defendant's appearance in the future, on the conditions stated on the Order of Pretrial Conditions of Release, if any.

**An amount greater than the defendant can afford is necessary to assure the defendant's future appearances, based on the following:**

- the charged offense(s) (strength of case, nature and circumstances, potential penalty): \_\_\_\_\_
- the defendant's background (family ties, residence status, employment, history in community, mental illness, substance use disorder): \_\_\_\_\_
- the defendant's criminal history (convictions, crimes while on bail or court supervision, probation violations): \_\_\_\_\_
- restraining orders (alleged conduct is "abuse" or violates a restraining order, history of restraining orders): \_\_\_\_\_
- the defendant's risk of flight (use of an alias, false identification, failure to appear at court proceedings, flight to avoid prosecution): \_\_\_\_\_
- The bail amount was determined by considering: \_\_\_\_\_
- The Commonwealth's interest in this bail amount outweighs the potential adverse impact of pretrial detention on the defendant and his or her immediate family or dependents.

**COVID-19 factors:**

- the defendant is entitled to a rebuttable presumption of release because the defendant is neither detained under G. L. c. 276, § 58A, nor charged with an excepted offense under *CPCS v. CJTC*, 484 Mass. 431 (2020), Appx. A.
  - the Commonwealth **has** rebutted the presumption of release by proving, by a preponderance of the evidence, that release would result in an unreasonable danger to the community or that the defendant presents a very high risk of flight.
    - the court imposes bail in the amount stated above for the reasons stated above.
  - the Commonwealth has **not** rebutted the presumption of release.
    - the court orders the defendant released on personal recognizance on conditions, if any.
- the defendant is **not** entitled to a rebuttable presumption of release because the defendant is either detained under § 58A, or charged with a violent or otherwise serious offense excepted by *CPCS v. CJTC*
  - the court  imposes  declines to impose bail in an amount higher than the defendant can afford after considering the following factors:
    - the general risk of the defendant's exposure to COVID-19 in custody
    - the defendant  is  is not particularly vulnerable to COVID-19 due to a  preexisting medical condition or  advanced age
    - if released, the defendant  would  would not pose a safety risk to the victim, the victim's family, witnesses, the community, or the defendant
    - the proposed release plan  will  will not ensure the safety of the defendant and others
    - probation detainee: violation(s) is  alleged new offense  technical

If the defendant is released, and if the defendant has tested positive or is symptomatic for COVID-19, or is in quarantine, this order will take effect after completion of quarantine.

Further explanation: \_\_\_\_\_

**Additional conditions of release:**  no additional conditions are required;  the defendant shall abide by the conditions stated on the Order of Pretrial Conditions of Release, or the G. L. c. 276, § 58A form, if applicable, which conditions are necessary and sufficient reasonably to assure the safety of other persons and the community, and the defendant's appearances at future court proceedings.

**Date:** \_\_\_\_\_ **Superior Court Justice:** \_\_\_\_\_