

COMMONWEALTH OF KENTUCKY
NELSON CIRCUIT COURT
INDICTMENT NO. 23-CR-00309
DIVISION 1

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

ORDER

BROOKS WILLIAM HOUCK

DEFENDANT

* * * * *

The Nelson County Grand Jury has charged the defendant, Brooks William Houck (hereinafter "Brooks"), with murdering Crystal Rogers (hereinafter "Crystal") and tampering with physical evidence. At the recommendation of the Special Prosecutor and the Nelson County Grand Jury, this Court fixed a \$10,000,000.00 bond for Brooks. In doing so, this Court was well-aware of most of the information described below based upon its prior review of affidavits for search warrants and from hearings related to the grand jury.

On October 2, 2023, Brooks, through counsel, filed a motion to reduce his bond. At arraignment, the defense vigorously asserted that the bond is unreasonable, punitive, and oppressive. This Court will now address and adjudicate this pending motion. In doing so, this Court is mindful that Brooks is entitled to the presumption of innocence.

By way of background, Crystal disappeared on or about July 3, 2015. Her family and law enforcement suspected that her boyfriend, Brooks, was responsible for her disappearance. At that time, Brooks' brother, Nick Houck (hereinafter "Nick"), was employed as a Bardstown City Police Officer. However, Nick's employment was subsequently terminated for allegedly interfering with law enforcement's investigation.

The Commonwealth Attorney subpoenaed five Houck family members to testify before the Nelson County Grand Jury. The Commonwealth has seized evidence which indicates that

these Houck family members secretly recorded their grand jury testimonies. The Special Prosecutor has proffered a recording supposedly taken by Brooks' sister, Rhonda McIlvoy (hereinafter "Rhonda"), along with an FBI transcript of same.

On that recording, there is a conversation between a male and a female. The male starts the equipment and states that "Nicholas can find it." While the female is waiting to testify, she expresses concern as to whether the device would start beeping. The male then reassures her by stating "it's got brand new batteries in it." The concerned female later states "you're keeping it. Keep it out here." The male responds "no, we need to hear it." The Commonwealth contends that the male voice on this recording belongs to Brooks.

In November of 2016, Crystal's father, Tommy Ballard (hereinafter "Tommy"), was shot and killed while hunting. The Commonwealth believes that it possesses the firearm used in that shooting. The Prosecutor contends that Nick sold this rifle while using a fictitious name. This firearm is the same caliber as the one used to kill Tommy. This rifle is currently undergoing testing, and the Commonwealth claims that testing has already determined the presence of four of the five criteria needed for matching this gun to the one used in Tommy's killing.

When fixing bond, this Court must comply with RCr 4.16. This criminal rule specifically contains the following language:

The amount of bail shall be sufficient to insure compliance with the conditions of release set by the court. It shall not be oppressive and shall be commensurate with the gravity of the offense charged. In determining such amount the court shall consider the defendant's past criminal acts, if any, the defendant's reasonably anticipated conduct if released and the defendant's financial ability to give bail.

See also KRS 431.525; and *Abraham vs. Commonwealth*, 565 S.W.2d 152 (Ky. App. 1977).

Defense counsel's well-researched memorandum clearly establishes that bonds in murder cases in central Kentucky usually range between \$500,000.00 to \$2,000,000.00. In fact, this judge has presided over thousands of felony cases over the past twenty years. Prior to this action, this judge had never set a bond higher than \$2,000,000.00. In addition, Brooks' criminal record is rather miniscule (traffic and ordinance charges). However, for the reasons set forth below, this judge believes that the \$10,000,000.00 bond is reasonable to assure Brooks' appearance, to adequately protect cooperating witness(es) and other individuals associated with this case, and to better assure the integrity of this proceeding.

First, this Court believes that Brooks has access to substantial financial resources. The records from the Kentucky Secretary of State indicate that he is the sole member of three business entities; namely, Houck Rentals, LLC, Select Quality Homes, LLC, and Central Kentucky Real Estate Rentals, LLC. The Commonwealth has proffered documentation which indicates that these entities own 83 properties in Nelson County, with most being rental properties. The tax assessments for 66 of these properties totaled approximately \$8,500,000.00. This judge is also familiar with Nelson County real estate transactions, with the resulting sale prices often exceeding the tax assessments.

Second, this Court has considered the gravity of the murder charge while recognizing that Brooks' pretrial assessment indicates that he is a low risk for flight and a low risk to reoffend. Although this Court routinely relies on pretrial assessments for lower level felonies, it certainly believes that most healthy defendants are a flight risk when they are facing severe penalties like twenty (20) to fifty (50) years, or life, in prison. In addition, parole eligibility is much harsher if a defendant is convicted of murder.

Third, there is reason to believe that the Commonwealth may have one or more cooperating witnesses, and this Court is gravely concerned for the safety of any such witness(es) and any other individuals connected to this case. As grounds, it appears that the Commonwealth may have obtained from Nick the firearm that was used to kill another person associated with this case. Although the defense contends that Brooks is not responsible for Nick's behavior, it is apparent that Nick has provided ongoing assistance to his brother. First, Nick's employment was terminated for interfering with this criminal investigation. Second, Nick apparently recorded his grand jury testimony in violation of RCr 5.24. Third, when Rhonda expressed concern with using the recording device, the male voice responds "no, we need to hear it." With this conversation supposedly being between siblings, it is reasonable to assume that "we" refers to Nick, especially since the male voice previously stated that "Nicholas can find it." Although this Court will not speculate about a motive for killing Tommy, it is extremely alarming as to why Nick may have been selling the same caliber firearm that matches four of the five criteria for being used in Tommy's shooting.

Fourth, this judge simply wants both sides to receive a fair and impartial trial. However, the integrity of the entire proceeding is at stake when someone deliberately violates the rules of criminal procedure. In this case, the Houck family intentionally engaged in misconduct when they secretly recorded the grand jury proceeding. In fact, Rhonda even expressed second thoughts about using the recording device, but the male voice responded with "no, we need to hear it." In addition, any former police officer in Nick's position should have known that it is inappropriate for him and his family to secretly record any grand jury testimony.

The Court being sufficiently advised;

IT IS HEREBY ORDERED AS FOLLOWS:

1. That the defendant's motion to reduce bond is hereby DENIED.

2. That the Nelson Circuit Clerk shall seal the audio recording and the FBI transcript of the alleged conversation between the defendant and his sister, Rhonda McIlvoy.



JUDGE, NELSON CIRCUIT COURT

DISTRIBUTION LIST:

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Clerk _____

Date _____