

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Hillsborough County

Hillsborough Superior Court Northern District

State v. Kayla Montgomery

216-2022-CR-00039

ORDER

The defendant appeared before the Court today for an arraignment and bail hearing. She waived formal reading of the charges and entered pleas of not guilty. The defendant is presently charged with one count of Theft by Deception (felony) and two counts of Welfare Fraud (misdemeanors). The State has informed the Court that it intends to enter a nolle prosequi on the previously filed charge of felony Welfare Fraud.

The State requests that bail remain as set in the amount of \$5000 cash or corporate surety with conditions, arguing that the nature of the allegations support a finding that the defendant presents a risk of flight. The defendant is indigent and has been unable to post bail as set. The standard for setting bail in this matter includes that “[t]he court shall not impose a financial condition that will result in the pretrial detention of a person solely as a result of that financial condition unless the court determines by clear and convincing evidence that the nature of the allegations presents a substantial risk that the person will not appear and that no reasonable alternative will assure the person’s appearance.” RSA 597:2, III (b) (4).

The defense does not object to bail remaining at \$5000 cash or surety, nor any of the significant bail conditions proposed by the State, including daily check-ins with the Manchester Police Department. The defense requests, however, that bail convert to personal recognizance upon entry into a treatment program. The defendant has a limited criminal history, and has no history of failing to appear for any court appearance. She has also previously complied with


Court ordered conditions of a deferred sentence. Additionally, the defense notes she was aware of the police investigation regarding H.M. for approximately ten days prior to her arrest on the initial welfare fraud charge and made no attempt to flee. Her contacts in the State are significant. She is a nearly lifelong resident of New Hampshire and her children and extended family members are here.

The Court is mindful of the serious nature of the State's investigation regarding H.M. However, the issue before the Court at this time is the risk of flight of the defendant based upon the theft and welfare fraud charges. Taking into consideration the evidence and arguments presented, the Court does not find that the State has met its burden to show by clear and convincing evidence that there are no conditions that the Court can set that will reasonably assure her appearance on the charges pending against her. Therefore, bail will remain as set at \$5000 cash or surety, however it shall convert to personal recognizance upon entry into and successful completion of the Cynthia Day program. The Court will also impose significant additional conditions. The defendant shall sign a release of information at the program to allow the State to monitor compliance and allow the program to immediately notify the State should she leave or be discharged for any reason. The defendant shall be required to check in daily by phone with the Manchester Police Department. She is required to sign a waiver of extradition before her release and have no contact with Adam Montgomery. She may not travel outside the State of New Hampshire. These conditions as well as additional standard conditions are set forth in the Superior Court Bail Order issued on today's date.

SO ORDERED.

January 24, 2022

Date


Amy B. Messer
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 01/24/2022