

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2007

DANTON PATRICK,
Petitioner,

v.

STATE OF FLORIDA and **RIC L. BRADSHAW,**
Palm Beach County Sheriff,
Respondents.

No. 4D07-3628

[September 21, 2007]

PER CURIAM.

The petitioner filed for a writ of habeas corpus. He argues that the trial court improperly increased his bond *sua sponte*. We agree and grant the petition.

The trial court found probable cause and set bond in petitioner's case at the first appearance hearing. Not long after the hearing ended and after petitioner was outside the courtroom, a disturbance could be heard by those inside the courtroom. The judge inquired about the noise, which was apparently someone's voice. An unidentified person told the judge that petitioner had been "very verbal" on his way to the holding cell. The court then stated:

I'm going to modify his release conditions. The court finds that an individual who can't comport themselves in court- the court has limited confidence he'll be able to comply with these conditions.

Over the defense counsel's objection, the trial court increased petitioner's bond *sua sponte*.

A trial court does not have the authority to increase bond on its own motion. *Sueliman v. Jenne*, 935 So.2d 120 (Fla. 4th DCA 2006); *Montgomery v. Jenne*, 744 So.2d 1148 (Fla. 4th DCA 1999); *Cousino v. Jenne*, 717 So.2d 599 (Fla. 4th DCA 1998). In addition, once bond has been set, any modification of bond necessitates notice be given to the

defendant. Fla. R. Crim. P. 3.131(d)(2); *Flemming v. Cochran*, 694 So.2d 131, 133 (Fla. 4th DCA 1997).

The trial court abused its discretion when it *sua sponte* increased petitioner's bond after petitioner had left the courtroom and without giving petitioner notice. Accordingly, we grant the petition for writ of habeas corpus and quash the order increasing bond. The case is remanded for reinstatement of the bond and conditions originally set.

SHAHOOD, C.J., STEVENSON and MAY, JJ., concur.

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Petition for writ of habeas corpus to the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Richard Wennet, Judge; L.T. Case No. 2007CF013038AXX.

Carey Haughwout, Public Defender, and Daniel Cohen, Assistant Public Defender, West Palm Beach, for petitioner.

Bill McCollum, Attorney General, Tallahassee, and Sue-Ellen Kenny, Assistant Attorney General, West Palm Beach, for respondent State of Florida.