

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

CLEVE ALEXIS FREDERICK,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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Case No. 2D20-2768

Opinion filed May 21, 2021.

Petition for Writ of Certiorari to the Circuit
Court for Lee County; Robert J. Branning,
Judge.

Kathleen A. Smith, Public Defender, and
Erin R. Casey, Assistant Public Defender,
Fort Myers, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and James Hellickson,
Assistant Attorney General, Tampa, for
Appellee.

LaROSE, Judge.

Cleve Alexis Frederick petitions for issuance of a writ of certiorari
quashing the trial court's order denying his "Motion for Modification of Bail Conditions."
Specifically, Mr. Frederick challenges the conditions that he wear a GPS monitoring
device and "pay all associated costs with installation and service to remain on electronic
monitoring."

At the evidentiary hearing on his motion, Mr. Frederick submitted receipts reflecting that, over the course of two months, he paid a total of \$565 in monitoring costs. He contends that he is unable to continue paying these costs. Thus, he speculates that he will be forced back into custody if his pretrial release is not modified. Cf. Sewell v. Blackman, 301 So. 3d 354, 358 n.4 (Fla. 2d DCA 2020) ("Petitioner seeks habeas corpus relief in this court on the grounds that the total amount of the bond set is excessive in light of his financial circumstances. It is well settled that excessive bond is tantamount to no bond, and that an appellate court will grant relief where the petitioner shows that the amount of bond set is unreasonable under the circumstances." (quoting Alexander v. Broward Cnty. Sheriff's Off., 6 So. 3d 707, 708 (Fla. 4th DCA 2009))).

Because Mr. Frederick challenges his pretrial release conditions, we convert the certiorari petition to a petition for writ of habeas corpus. See Ex parte Bosso, 41 So. 2d 322, 323 (Fla. 1949) (concluding that a probationer was sufficiently restrained by the probation order "to justify our testing its validity in habeas corpus" (citing Sellers v. Bridges, 15 So. 2d 293 (Fla. 1943))); Sewell, 301 So. 3d at 355 ("Seeking a writ of habeas corpus is the proper method for obtaining review of pretrial release conditions."); Norton-Nugin v. State, 179 So. 3d 557, 559 (Fla. 2d DCA 2015) ("A petition for writ of habeas corpus is the proper method to seek review of an order setting pretrial release conditions."); Greenwood v. State, 51 So. 3d 1278, 1280 (Fla. 2d DCA 2011) ("A petition for writ of habeas corpus in the appellate court is the appropriate way to challenge a trial court's ruling on the conditions of pretrial release."); see also Fla. R. App. P. 9.040(c) ("If a party seeks an improper remedy, the cause shall be treated as if the proper remedy had been sought; provided that it shall not be the responsibility of the court to seek the proper remedy.").

We review the trial court's order under an abuse of discretion standard. See Sewell, 301 So. 3d at 355 ("Setting conditions of release, including whether and how much monetary bail must be posted, is a matter for the discretion of the trial court, whose determination may be reversed only if that discretion is abused."). The trial court properly considered all relevant factors in denying Mr. Frederick's motion. See § 903.046(2), Fla. Stat. (2020) (setting forth the criteria for bail determination).

Petition for Writ of Habeas Corpus is denied.

SILBERMAN and LUCAS, JJ., Concur.