

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

GALEN GOLDEN, )  
)  
                  Petitioner, )  
)  
v. )  
)  
LAWRENCE W. CROW, JR., )  
As Sheriff of Polk County, )  
)  
                  Respondent. )  
\_\_\_\_\_ )

Case No. 2D03-5572

Opinion filed December 22, 2003.

Petition for Writ of Habeas Corpus  
to the Circuit Court for Polk County;  
William Bruce Smith, Judge.

James Marion Moorman, Public  
Defender, and Robert V. Hartman,  
Assistant Public Defender, Bartow,  
for Petitioner.

Charles J. Crist, Jr., Attorney General,  
Tallahassee, and Danilo Cruz-Carino,  
Assistant Attorney General, Tampa,  
for Respondent.

PER CURIAM.

Galen Golden petitions this court for a writ of habeas corpus. Golden is being held without bond on charges of aggravated assault with a deadly weapon and violation of injunction against repeat violence, for which he is eligible for pretrial detention under section 907.041(4)(a), Florida Statutes (2002). However, the State has failed to file a motion for pretrial detention pursuant to Florida Rule of Criminal Procedure 3.132. Rule 3.132(a) states, "If no such motion is filed, or the motion is facially insufficient, the judicial officer shall proceed to determine the conditions of release pursuant to the provisions of rule 3.131(b)(1)." Rule 3.131(b)(1) sets forth the possible conditions of release, none of which include being held without bond.

Because the State has failed to file a motion for pretrial detention, we grant the petition for writ of habeas corpus and remand for the trial court to conduct a hearing pursuant to rule 3.131(b)(1) and determine appropriate conditions of release. The trial court is directed to hold the hearing by noon, Wednesday, December 24, 2003. Should the trial court fail to do so, it shall impose the standard bond for a third-degree felony and a first-degree misdemeanor.

Petition granted; remanded with directions.

ALTENBERND, C.J., and FULMER and DAVIS, JJ., Concur.