

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

GERRARD L. SIMMONS,)
)
 Petitioner,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Respondent.)
_____)

Case No. 2D05-4868

Opinion filed December 7, 2005.

Petition for Writ of Habeas Corpus to the
Circuit Court for Polk County; Dennis
Maloney, Judge.

James Marion Moorman, Public Defender,
and Robert A. Young and Marlisa DeMond,
Assistant Public Defenders, Bartow for
Petitioner.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Jonathan P. Hurley,
Assistant Attorney General, Tampa, for
Respondent.

PER CURIAM.

Gerrard L. Simmons seeks a writ of habeas corpus challenging the trial court's sua sponte order revoking his pretrial release and incarcerating him on a \$100,000 bond for charges of burglary, grand theft, resisting arrest without violence, and possession of marijuana. In a previous order of this court, we granted the petition for writ of habeas corpus, struck the trial court's sua sponte imposition of a \$100,000 bond, and reinstated Simmons' previously ordered total bond of \$10,000. This opinion now follows.

Florida Rule of Criminal Procedure 3.131(d)(2) permits the State to apply for modification of bail by showing good cause and with at least three hours' notice to the attorney for defendant. Here, the State sought modification of Simmons' pretrial release conditions, but the trial court denied its request. Subsequently, with no prior notice to Simmons, the trial court sua sponte increased the bond on grounds not raised by the State. The trial court was without authority to increase Simmons' bond on its own motion. See Bowers v. Jenne, 710 So. 2d 681, 682 (Fla. 4th DCA 1998). Thus, the trial court erred by taking Simmons into custody and increasing his bond to \$100,000. We therefore granted the petition, struck the order increasing the bond, and reinstated the previously ordered total bond of \$10,000.

WHATLEY, CASANUEVA, and WALLACE, JJ., Concur.