

Third District Court of Appeal

State of Florida

Opinion filed October 31, 2017.
Not final until disposition of timely filed motion for rehearing.

No. 3D17-2312
Lower Tribunal No. 16-2434

Ishsha Shalem,
Petitioner,

vs.

Daniel Junior, etc., et al.,
Respondents.

A Case of Original Jurisdiction – Habeas Corpus.

Carlos J. Martinez, Public Defender, and Natasha Baker-Bradley, Assistant Public Defender, for petitioner.

Pamela Jo Bondi, Attorney General, and Christina L. Dominguez, Assistant Attorney General, for respondent State of Florida.

Before SUAREZ, LOGUE, and LINDSEY, JJ.

SUAREZ, J.

This matter first came before this Court upon Petitioner Ishsha Shalem's petition for a writ of habeas corpus claiming her pretrial detention without bond is unlawful. A review of the record shows that the Petitioner was ordered detained without any condition for pretrial release pending trial. The record and transcripts

from the hearings showed that the requirements of section 907.041, Florida Statutes (2017) and Florida Rules of Criminal Procedure 3.131 and 3.132 were not followed and that the trial court had failed to make the proper findings before ordering pretrial detention. We granted the petition and ordered the trial court to hold a hearing no later than Monday, October 30, 2017 and to comply with the requirements of section 907.041, Florida Statutes (2017) and Florida Rules of Criminal Procedure 3.131 and 3.132 in determining the appropriate conditions for either release or pretrial detention.

The matter is back before us on the Petitioner's Motion to Enforce Habeas Corpus. A review of the transcript from the hearing on Monday, October 30, 2017 shows that the trial court failed to delineate the findings and reasons for pretrial detention. As such, we send this matter back – once more – for a hearing to be held before noon Wednesday, November 1, 2017, and for the trial court to specifically set forth its findings, in accordance with the Rules of Criminal Procedure and section 907.041, for either pretrial release or detention. The Petitioner shall remain in custody pending the determination of pretrial release or detention.

We also find that in the interest of pursuing fairness, further proceedings in this case should be held before a different judge.