

# **Third District Court of Appeal**

## **State of Florida**

Opinion filed August 26, 2020.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D20-1051  
Lower Tribunal No. 16-2243E

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**Joseph Lamar Yearby,**  
Petitioner,

vs.

**The State of Florida,**  
Respondent.

A Case of Original Jurisdiction - Habeas Corpus.

Williams Hilal Wigand Grande, PLLC, and Daniel Grande, for petitioner.

Ashley Moody, Attorney General, and Magaly Rodriguez, Assistant Attorney General, for respondent.

Before FERNANDEZ, SCALES and GORDO, JJ.

PER CURIAM.

Joseph Yearby seeks habeas corpus relief following the trial court's denial of his motion to reduce his bond, which is currently set at \$1,010,000 pending his trial on charges of racketeering/RICO, conspiracy to traffic in Oxycodone and conspiracy to traffic illegal drugs. Yearby argues the trial court failed to take evidence on the factors enumerated in section 903.046, Florida Statutes.

In April of 2016, Yearby's bond was set at \$1,010,000 at his first appearance. At Yearby's bond hearing, the judge left the bond amount as set by the first appearance judge. On October 16, 2019, Yearby filed a motion for a reduction in bond. The motion did not specify the reasons why Yearby sought a reduction and did not contain any attachments. Yearby has approximately forty-six prior criminal convictions, which the motion failed to mention. Additionally, two of the underlying charges are predicated on conduct that occurred while Yearby was on probation in another case. On November 19, 2019, the trial court held a non-evidentiary hearing and denied the motion. On July 27, 2020, Yearby filed the instant petition.

Trial courts have broad discretion in ruling on motions to reduce bond, and those rulings are reviewed under an abuse of discretion standard. See, e.g., Byrd v. Mascara, 197 So. 3d 1211, 1213 (Fla. 4th DCA 2016). "The trial court's determination of bail is presumed correct, but an appellate court will grant relief where petitioner demonstrates that the bail amount is unreasonable under the

circumstances.” Id. (citing Martin v. Jenne, 745 So. 2d 412, 413 (Fla. 4th DCA 1999)).

Camara v. State, 916 So. 2d 946 (Fla. 3d DCA 2005), mandates that in order to make a bond determination and exercise its discretion, the trial court must take evidence and make findings on the statutory factors. In Camara, this Court held that the failure to hold an evidentiary hearing and make the requisite statutory findings is sufficient to warrant relief in the form of granting a petition for habeas corpus and remanding for further proceedings. 916 So. 2d at 947. “Where the evidence at a bond hearing is insufficient on [the requisite statutory findings], habeas corpus should be granted and the cause returned to the trial court for a new determination.” Id. (citing Patterson v. Neuman, 707 So. 2d 946 (Fla. 4th DCA 1998)).

In this case, the hearing on Yearby’s motion was non-evidentiary in nature—the trial court did not hear any testimony, take any evidence, or make any factual findings regarding any of the statutory factors. Yearby’s counsel argued that the basis for the motion was Yearby’s lack of financial resources, but there is no evidence in the record and no findings from the trial court regarding his financial resources.

“Accordingly, we grant the petition for writ of habeas corpus solely to the extent that we remand the cause back to trial court for the purpose of holding an evidentiary hearing on the petitioner’s financial resources and all other appropriate

criteria.” Id. “Nothing in this order shall be construed as directing or mandating the release of the petitioner prior to further determination made by the trial court based on this order.” Id. at 947–48.

Petition granted and cause remanded for further proceedings.