

FILED _____ JAB
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DISTRICT COURT
18th JUDICIAL DIST.
97 _____ JAB

John Sullivan SC # 21672
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IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CRIMINAL DEPARTMENT

THE STATE OF KANSAS,)
)
 Plaintiff,)
)
 vs.) Case No. 10CR3795
)
 TERRY BLUM,)
)
 Defendant.)

MOTION TO REDUCE BAIL

Now comes the Defendant, Terry Blum, by his attorney, John B. Sullivan, and moves this Court to reduce defendant's bond.

In support of this motion, defendant states as follows:

1. K.S.A. 22-2802(a)(1995) directs the magistrate to set a pretrial bail bond for a defendant in an amount sufficient "to assure the appearance of [the defendant] before the magistrate when ordered and to assure the public safety." Under the Kansas Constitution, the amount of bail cannot be set "to assure the public safety."

2. Section 9 of the Bill of Rights for the Kansas Constitution, states:

All persons shall be bailable by sufficient sureties except for capital offenses, where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

(Emphasis added.) This constitutional language expressly provides that all except one class of defendants are bailable.

3. Kansas cases solidly agree that the purpose of bail is to assure the defendant's appearance in court. *State v. Ruebke*, 240 Kan. 493, 498, 731 P.2d 842 (1987); *State v. Foy*, 224 Kan. 558 P.2d 281 (1978); *State v. Burgess*, 205 Kan. 224, 226, 468 P.2d 229 (1970); *State v. Way*, 204 Kan. 375, 380, 461 P.2d 820 (1969); *State v. Robertson*, 203 Kan. 647, 455 P.2d 570 (1969); *State v. Craig*, 198 Kan. 39, 41, 422 P.2d 955 (1967).

4. K.S.A. 22-2802(4) provides: "In determining which conditions of release will reasonably assure appearance, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the crime charged, the weight of the evidence against the defendant, the defendant's family ties, employment, financial resources, character and mental condition, the length of said defendant's residence in the community, said defendant's record of convictions, and said defendant's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings."

5. Defendant is currently in jail on allegations of aggravated indecent liberties.

6. Bail has been set in this case in the amount of \$100,000 which defendant respectfully states is excessive and that defendant lacks the funds or means to meet the financial requirements of the aforesaid bail.

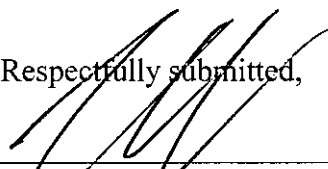
7. If released on bail, Mr. Blum will live in Wichita, KS.

8. Defendant has no prior felony convictions, and if released, would not pose a flight risk.

9. Defendant would subject himself to any type of monitoring that the Court feels is appropriate.

WHEREFORE, defendant moves this Court to enter an order reducing the amount of bail previously set in the above-entitled case.

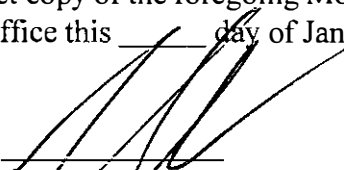
Respectfully submitted,



John B. Sullivan, #21672
Attorney for the Accused

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion was hand delivered to the Sedgwick County District Attorney's office this _____ day of January, 2011.



John B. Sullivan,
Assistant Public Defender

NOTICE OF HEARING

Please take notice and be advised that the foregoing Motion will be heard at 9:00 a.m. on January 7th, 2011 at the Criminal Motion Docket.