

**STATE OF NEW MEXICO
COUNTY OF SANDOVAL
THIRTEENTH JUDICIAL DISTRICT COURT
IN THE MAGISTRATE COURT**

FILED IN
SANDOVAL COUNTY

2017 APR 24 AM 8:13

MAGISTRATE COURT
DIVISION III

M-45-__-2017-_____
D-1329-__-2017-_____

**STATE OF NEW MEXICO,
Plaintiff,**

v.

**THOMAS GOODRIDGE,
Defendant.**

STATE'S MOTION FOR PRETRIAL DETENTION

COMES NOW the State of New Mexico, by and through Assistant District Attorney Mathew Wadsworth, and requests that this honorable Court transfer this case to District Court for that Court to issue an order holding Defendant in pre-trial detention without bond until this matter is resolved by trial. Further, the State requests that the District Court set this matter for a detention hearing where the State will prove by clear and convincing evidence that no release conditions will reasonably protect the safety of the community if Defendant is released from custody prior to trial. The State also requests that the District Court find that the proof is evident or the presumption great that Defendant committed capital murder, and he is not entitled to bail. This request is made pursuant to Article II, §13 of the New Mexico Constitution. In support of this motion, the State asserts the following:

Facts

1. On Saturday, April 22, 2017 at around two in the morning, Defendant called 911 to report that he had just murdered his wife. Police located Defendant waiting outside, and they entered the

residence where they located the remains of A.G., Defendant's wife, lying in the bed in the master bedroom. Police observed severe trauma to A.G.'s head, and located a piece of rock in the bedroom. Defendant was read his Miranda rights, and he agreed to give a statement.

Defendant directed police to a bloody rock near the front door, which he said he had used to beat his wife to death. Police observed that the rock near the front door appeared to match the piece of rock located near A.G.'s remains.

2. Defendant was transported to the Sandoval County Sheriff's Office, where he was read his Miranda rights again, and he gave a recorded statement. Defendant indicated that he is bi-polar, and under a psychiatrist's care. Defendant stated that he took his medication on April 21, 2017 before going to bed, and he felt normal. However, Defendant also stated that he has been hearing voices and experiencing a fear of being attacked for months. According to Defendant, the voices told him that he would have to take his wife's life if he did not want her to be harmed. On April 22, 2017, Defendant woke up at about one in the morning fearing that he and his wife were going to be attacked. Defendant told police that he decided to "take her out of her misery," so he obtained a rock from near the front door, and he hit her in the head until he was sure she was dead. According to Defendant, A.G. was asleep when the attack occurred, and she never woke up. Defendant stated that he then called 911, washed his hands, brushed his teeth, combed his hair, and waited for the police to arrive.
3. During the interview, Defendant told police that he was still wearing the shirt he was wearing during the attack. Police observed blood stains on the shirt, and they collected it into evidence. For additional details, see the sworn criminal complaint affidavit prepared by Sergeant Victor Rodriguez with the Sandoval County Sheriff's Office. See Exhibit A, attached.

4. Police executed a search warrant on Defendant's residence after he gave his statement. Police located a significant amount of medication that appeared to have been prescribed to Defendant, but that he appears to have not been taking for some time before this crime occurred.
5. Defendant is 72 years old. He referred to his wife as "the best" during the interview, and he reported that they had been married for 43 years. Defendant has no significant criminal history that the State is aware of at this time.
6. A.G. was 76 years old. The closest next of kin that police were able to locate is her brother, who currently resides in Colorado.
7. A Criminal Complaint has been filed in Magistrate Court charging Defendant with an open count of Murder. Pursuant to NMSA §30-2-1 "whoever commits murder in the first degree is guilty of a capital felony."

Argument
Procedure

8. On November 8, 2016, New Mexico voters amended Article II, §13 of the New Mexico Constitution to read "Bail may be denied by a court of record pending trial for a defendant charged with a felony if the prosecuting authority requests a hearing and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community."
9. The New Mexico Rules of Criminal Procedure have not yet been officially amended to provide guidance for the procedure for pre-trial detention hearings. However, the Supreme Court has published several proposals regarding amendments to the Rules of Criminal Procedure in response to the 2016 amendment to Article II, §13 of the New Mexico Constitution. Most relevant to this motion is Proposal 2017-041 to create NMRA Rule 6-409 and NMRA Rule

5-409. Proposal 2017-041 is available on the New Mexico Supreme Court's website at <https://supremecourt.nmcourts.gov/closed-for-comment.aspx>, and it is attached to this motion as Exhibit B.

10. Under proposed NMRA Rule 6-409(C), "Upon the filing of a motion for pre-trial detention... the magistrate court's jurisdiction to set or amend conditions of release shall be terminated, and the district court shall acquire exclusive jurisdiction over issues of pretrial detention or release. The defendant shall be detained pending the completion of a pretrial detention hearing."
11. On April 12, 2017, the New Mexico Supreme Court heard arguments in *Torrez v. Whitaker*, S-1-SC-36379. The Court has not yet issued a written opinion in that case. However, the Court did issue a ruling from the bench. The audio recording of that ruling is available on the New Mexico Supreme Court's website at <https://supremecourt.nmcourts.gov/oral-arguments.aspx>. During the Court's oral ruling, the Court made clear that if a detention motion is filed pre-indictment, the District Court's first responsibility is to determine if there is probable cause that the crime was committed. The Supreme Court also made clear that the rules of evidence do not apply in pre-trial detention hearings, and the Defendant is not entitled to cross-examine live witnesses. The State may choose to present one or more live witnesses for the Court to better understand the evidence against a defendant, or the State may choose to rely on the documentary evidence that has been generated in connection with the case.

Probable Cause

12. In this case, the crime occurred in the early morning hours of Saturday, April 22, 2017. The State has not yet had time to present this case for a preliminary hearing or to a Grand Jury. Pursuant to the New Mexico Supreme Court's ruling in *Torrez v. Whitaker*, the District Court's

first responsibility is to determine if there is probable cause that Defendant committed a felony.

13. Based on the sworn statements in the criminal complaint, there is ample evidence for the Court to find probable cause that Defendant committed first degree, willful and deliberate murder contrary to NMSA §30-2-1(A)(1). Defendant was read his Miranda rights, and he voluntarily told police that he woke up in the middle of the night and decided to kill his wife. Defendant formed a plan about how to accomplish the crime, he walked to the front door, retrieved a rock, walked to the bedroom, and committed the crime.
14. The physical evidence corroborates Defendant's statement. Police located A.G. lying in the master bedroom with severe head trauma. Police located a bloody rock where Defendant told them it was, and the rock near the front door appeared to match the piece of rock that they located in the bedroom.
15. The State recognizes that there may be issues for the trial jury regarding Defendant's mental status when this crime occurred. Expert witnesses may need to weigh in on Defendant's mental status. However, that is an issue for the trial jury. It is entirely possible that additional evidence will be located or that an expert witness will give the opinion that Defendant is of sound mind and he fabricated the mental illness story in an attempt to avoid culpability for his crime. In terms of probable cause, there is certainly sufficient evidence that Defendant was aware of what he was doing, he formed the intent to murder his wife, he deliberated on his plan, and he committed the murder of his wife.
16. The Court should find that there is probable cause that Defendant committed first degree murder.

New Constitutional Provision

17. The Supreme Court has issued Proposal 2017-042 to amend NMRA Rule 5-401. Proposal 2017-042 heavily amends other portions of NMRA Rule 5-401, but it does not meaningfully amend the content of NMRA Rule 5-401(C). This Court should continue to rely on NMRA Rule 5-401(C) as currently enacted for guidance for factors to consider in setting or denying bail.
18. NMRA Rule 5-401(C)(1) requires the Court to consider “the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug.”
- a. In this case, Defendant is charged with a crime of violence. Defendant is charged with deciding to murder A.G. and forming a plan for how to commit that murder. A.G. was lying in her sleep, completely unsuspecting of Defendant’s intentions, and posing no threat to him, when he went to the front door, located a rock, and then returned to the bedroom to beat her until he was sure she was dead.
19. NMRA Rule 5-401(C)(2) requires the Court to consider “the weight of the evidence against the person.”
- a. In this case, Defendant called 911 to report that he had just murdered his wife. Police located Defendant at the scene of the crime wearing a bloody shirt. Defendant gave a detailed confession about when and how he decided to murder his wife, and how he carried out the murder.
20. NMRA Rule 5-401(C)(3) requires the Court to consider “the history and characteristics of the person.”

- a. In this case, the biggest concern is Defendant's mental status. If Defendant is lying about his mental status, he has just committed the monstrous and unexcused murder of a defenseless 76 year old woman lying in bed asleep. If Defendant is telling the truth, he has now acted after hearing voices directing him to commit at least one act of violence for months. Defendant reports that he is under a psychiatrist's care, but based on the search warrant, it appears that Defendant has not been taking his medication.
- b. The State is unaware of any ties to the community besides Defendant's wife, who he murdered. Considering that the closest next of kin that police were able to locate for A.G. lives in Colorado, it is unlikely that Defendant has any close family residing in the area who can be entrusted to supervise him. If Defendant has any other ties to the community, he will have the opportunity to address the Court at the detention hearing in District Court.
- c. Defendant is 72 years old and charged with a capital crime. The severe sentence that Defendant is facing makes it logical for him to flee, and establishes that Defendant is a flight risk.

21. NMRA Rule 5-401(C)(4) requires the Court to consider the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

- a. The nature of the crime charged in this case indicates that Defendant is a danger to the community. If Defendant is lying about his mental health issues or how they affected his decision to murder his wife, he has just committed a brutal and inexcusable murder and devised a clever way to hide from criminal culpability.

Someone who can murder a 76 year old woman in bed in her sleep is clearly a danger to the community.

- b. If Defendant is telling the truth about his mental health issues, he is an even greater danger to the community. If Defendant is telling the truth, he is either improperly medicated or willfully non-compliant with his medication. Based on the unused medication located during the search warrant, Defendant has likely been willfully non-compliant with his medication. If Defendant is telling the truth, his mental disorder is so severe that it led to him purposefully murdering his wife of 43 years. It is anybody's guess what other violent acts the alleged voices Defendant is hearing are directing him to commit or will direct him to commit in the future. Defendant is apparently incapable of controlling himself when the voices direct him to commit violence. Someone with mental illness issues and violence issues this severe is far too dangerous to allow to leave the custody of the Sandoval County Detention Center at this time.
 - c. The safety of the community can only be ensured by keeping Defendant in pretrial detention, where the community can be sure that neither he nor the alleged voices in his head are plotting additional crimes of violence.
22. Given these risk factors, there are no release conditions that will reasonably ensure the safety of the community. Whether Defendant can post a monetary bond does not have a connection with whether Defendant will commit additional crimes if released. There is no indication that drugs or alcohol were involved in this crime, so testing by pretrial services to ensure that Defendant is sober will do nothing to assure the community that Defendant is not plotting

additional crime of violence. GPS monitoring requires a defendant that the Court can trust to not remove the GPS monitor. Based on the pre-meditation and level of violence involved in this crime, the fact that Defendant is facing a life sentence, and the fact that he has either constructed an elaborate lie about his mental health or he has been willfully non-compliant with apparently vital medication, the Court should not trust Defendant to comply with any conditions of release.

Old Constitutional Provision

23. Pursuant to amended Article II, §13 of the New Mexico Constitution, “All persons shall, before conviction be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great.” The 2016 Constitutional Amendment did not affect this portion of amended Article II, §13.
24. “An indictment charging a capital offense raises a rebuttable presumption that the proof is evident and the presumption great of the guilt of the accused, and accused is not entitled to bail until that presumption is overcome.” *Ex parte Towndrow*, 1915-NMSC-073, ¶ 7.
25. “The district court may deny bail altogether to a person charged with a capital offense if “the proof is evident or the presumption great.” *State v. Brown*, 2014-NMSC-038, ¶ 20.
26. The State is aware that there have been recent challenges to whether capital crimes continue to exist in New Mexico given the 2009 repeal of the death penalty. The provision of the New Mexico constitution denying bail to defendants charged with capital offenses was most recently challenged in *State v. Elexus Groves*, S-1-SC-36363, argued before the New Mexico Supreme Court on April 12, 2017. In its oral ruling from the bench, the Court unanimously determined that the District Court judge correctly denied Groves bail based on the new

constitutional provision, and that the challenge to the “capital offense” language in Article II, §13 was moot in that case.

27. The State asks this Court to find, based on long-standing precedent in the state of New Mexico, that first degree murder is a capital crime, regardless of if the death penalty is ultimately imposed as the sentence. See *State v. Coffin*, 1999-NMSC-038, ¶69 (“all capital defendants face a period of pretrial incarceration and the anxiety that their case *potentially* involves the death penalty if there is probable cause of an aggravating circumstance.” (Emphasis added)). The State also asks this Court to look at the plain language of NMSA §30-2-1, which states that “whoever commits murder in the first degree is guilty of a capital felony.”
28. In this case, the State asks the Court to find that proof is evident and the presumption is great that Defendant committed willful and deliberate murder, which is a capital crime. Defendant confessed to waking up in the night, forming the intent to murder his wife, forming a plan to accomplish the murder, then carrying out that plan. Defendant had the ability to change his mind and just go back to bed at any point between waking up, walking to the front door, selecting a rock, and walking back to the bedroom. Police corroborated Defendant’s statement based on the fact that he called 911 and told the 911 operator what he had done, he was found at the scene of the crime wearing a bloody shirt, he directed police to the rock he used, which matched the piece of rock located in the bedroom, and A.G. was found lying in bed in the master bedroom, where she was sleeping before Defendant decided to murder her.
29. Based on the strong evidence that Defendant committed a capital crime, Defendant is not entitled to bail under the old Constitutional provision, and the State asks the Court to deny Defendant bail.

WHEREFORE, the State requests that the Magistrate Court issue an order holding Defendant without bond until this matter can be adjudicated by the District Court. The State requests that this matter be transferred to District Court, and that an evidentiary hearing be scheduled. The State requests that the District Court find that there is probable cause that Defendant committed first degree murder, and there is clear and convincing evidence that no conditions of release can reasonable ensure the safety of the community. The State also requests that the District Court find that the proof is evident and the presumption great that Defendant committed a capital crime, and he is not entitled to bail.

Respectfully submitted,

Lemuel Martinez
District Attorney



Mathew Wadsworth
Assistant District Attorney
PO Box 1750
Bernalillo, NM 87004
505-771-7400

I hereby certify that a copy of the foregoing was sent to Randy Martinez, director of the contract counsel office of the Public Defender on 4/28/17.



Mathew Wadsworth
Assistant District Attorney