

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED

07/30/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. TONI LYNN PETERSEN

**Circuit Court for Rutherford County
No. 94811-B**

No. M2026-00856-CCA-R8-CO

ORDER

This matter is before the Court upon motion of the Defendant, Toni Lynn Petersen, for review of the trial court's order granting the State's motion to revoke her pretrial bond. *See* Tenn. R. App. P. 8; Tenn. Code. Ann. § 40-11-144. The State opposes. For the reasons stated below, the Defendant's motion is denied.

Procedure Governing Appellate Review

Rule 8 provides the procedural framework for obtaining appellate review of a trial court's decision regarding a defendant's pretrial release. Tenn. Code Ann. § 40-11-144. In order for this Court to conduct its review, and when there is no adequate record already on appeal, it is a defendant's responsibility to provide this Court with an *ad hoc* record of the proceeding below. Rule 8(a) mandates that any motion for review must "be accompanied by a copy of the motion filed in the trial court, any answer in opposition thereto, and the trial court's written statement of reasons, and shall state: (1) the court that entered the order, (2) the date of the order, (3) the crime or crimes charged or of which defendant was convicted, (4) the amount of bail or other conditions of release, (5) the arguments supporting the motion, and (6) the relief sought." Pursuant to prior order, the Defendant was granted permission to amend her motion, and the State was granted permission to then amend its response. The Defendant's amended motion, which includes the transcript of the hearing on the State's motion to revoke bond, is now adequate for this Court to conduct its review.

Background

The Defendant is charged with one count of second degree murder. The victim's

death was caused by a fentanyl overdose, and the Defendant is alleged to have provided the victim with that drug. The Defendant was originally released on a \$100,000 bond following the issuance of the indictment in September 2025. In December 2025, the trial court increased the bond to \$150,000 on the State's motion. The court also imposed conditions on the Defendant's release, including, but not limited to, that she "maintain good and lawful behavior," "would be drug tested regularly," and "not use or associate with anyone using illegally obtained substances." The court also ordered that the Defendant's "bond shall be immediately revoked and [she be] held without bond" pending trial if she violated any condition of her release.

On April 8, 2026, the State filed a motion to revoke the Defendant's bond. *See* Tenn. Code Ann. § 40-11-141(b). Therein, the State alleged the Defendant tested positive for fentanyl, "the exact same conduct that gave rise to the charges in the instant case." The State thus argued good cause existed "to believe the [D]efendant poses a danger to herself and others." Following a hearing on April 29, 2026, the court issued a written order stating simply that, "[b]ased on the findings on the record," the State's motion is granted, and the Defendant's bond is revoked. Despite amending her original motion with the transcript of the bond revocation hearing, the Defendant did not include a copy of the indictment, the original bond, the State's motion to increase the amount of the original bond, or the amended bond.

Applicable Law Governing Pretrial Bail

Article I, section 15 of the Tennessee Constitution guarantees a defendant the right to bail in all except capital cases. *See State v. Burgins*, 464 S.W.3d 298, 306 (Tenn. 2015); Tenn. Code Ann. § 40-11-102 ("Before trial, all defendants shall be bailable by sufficient sureties, except for capital offenses where the proof is evident or the presumption great."). Similarly, excessive bail is expressly prohibited by Article I, section 16 of the Tennessee Constitution. *See State ex rel. Hemby v. O'Steen*, 559 S.W.2d 340, 341-42 (Tenn. Crim. App. 1977).

Although the Tennessee Constitution guarantees a defendant the right to pretrial release, our supreme court has ruled that right is not absolute, and it may subsequently be forfeited based upon the defendant's conduct. *Burgins*, 464 S.W.3d at 301. The controlling statute provides that a court may revoke and terminate a defendant's bail:

If after the defendant is released upon personal recognizance, an unsecured personal appearance bond, or any other bond approved by the court, the defendant violates a condition of release, is charged with an offense committed during the defendant's release, or engages in conduct which results in the obstruction of the orderly and expeditious progress of the trial

or other proceedings, then the court may revoke and terminate the defendant's bond and order the defendant held without bail pending trial or without release during trial.

§ 40-11-141(b). Before a trial court may revoke bond under this statute, either *sua sponte* or upon motion of the State, a defendant must be afforded due process. *Burgins*, 464 S.W.3d at 307. The supreme court has promulgated the following procedure to ensure compliance with the requirements of the Fourteenth Amendment and article I, section 8 of the Tennessee Constitution:

The defendant is entitled to 1) written notice of the alleged grounds for revocation and the date, place, and time of the hearing, 2) disclosure of the evidence against him or her, 3) the meaningful opportunity to be heard and to present evidence, 4) the right to confront and cross-examine witnesses, and 5) the right to make arguments in his or her defense. The trial court must conduct an evidentiary hearing at which the State is required to prove, by a preponderance of the evidence, sufficient ground(s) under Tennessee Code Annotated section 40-11-141(b) to support a revocation. The evidentiary hearing need not be a mini-trial of the alleged conduct constituting the ground(s) for revocation. Moreover, the requirements for the revocation proceeding shall be somewhat flexible in that the trial court shall be able to consider factual testimony and documentary proof supporting the grounds for revocation of pretrial bail. In addition to documentary proof, the State must also present testimony from a corroborating witness or witnesses as to facts supporting the allegations contained in the documents. Hearsay evidence may be admitted when the trial court finds that it is reliable. *See generally State v. Wade*, 863 S.W.2d 406 (Tenn. 1993). At the close of proof, if the trial court finds that the State has shown, by a preponderance of the evidence, that the defendant has violated a condition of release, has committed a criminal offense while released on bond, or has engaged in conduct resulting in the obstruction of the orderly and expeditious progress of the trial or other proceedings, then the trial court may either revoke bail and hold the defendant until trial or continue bail with the possibility of additional conditions or an increased bond amount. In determining which option is appropriate, the trial court should consider 1) whether any additional bail conditions or an increased amount of bail would assure the appearance of the defendant at trial and protect the safety of the community under Tennessee Code Annotated section 40-11-116 and 2) the bail factors listed in Tennessee Code Annotated section 40-11-118. Revocation will be appropriate in cases where the court finds that the imposition of additional

bail conditions or an increased amount of bail would not be sufficient to assure the defendant's appearance at trial or protect the public's safety.

Id., at 310–11 (footnotes omitted). *Burgins* further states:

The revocation statute provides the grounds for bail revocation but does not set forth the procedure for trial courts to follow when conducting a bail revocation proceeding. A clear procedure that complies with due process requirements and eliminates uncertainty and disparity at the trial court level is needed.

Id., at 307. “[P]retrial bail revocation implicates liberty interests within the purview of the Fourteenth Amendment” and, thus, “the procedure to revoke pretrial bail must meet the requirements of due process embodied within the Fourteenth Amendment and article I, section 8 of the Tennessee Constitution.” *Id.* at 306-307.

Revocation Hearing

During the April 29th hearing, the State introduced evidence, through the Defendant's Community Corrections supervisor, that the Defendant testified positive for fentanyl while on bond. The Defendant apparently told the supervisor she possessed a “Kroger bag of pills” and mistakenly took what she thought was a “pain pill” before she testified positive for fentanyl. The State also introduced evidence through the investigating detective assigned to this case. The detective testified that the Defendant seemingly admitted to facilitating the transaction between her boyfriend and the victim for the purchase of the fentanyl which allegedly caused the victim's death.

The Defendant testified on her own behalf at the hearing. She stated that, since 2022 or 2023, she saved “a bunch of pills” in the “Kroger bag,” most of which had been prescribed to her over the years. She further stated she was visiting with “a guy” while she was on bond and, seemingly because she was emotionally distressed on that occasion, she ingested a pill from the bag that she thought was Percocet or Oxycodone, for which she was prescribed in the past. The Defendant did not dispute the bag also contained “pressed pills” which are made to resemble prescription drugs, but which also contain fentanyl and “other things.” The Defendant admitted to being an addict and “slipped and messed up.” She stated she was seeking treatment and asked the court for help in doing so. The Defendant testified she is a recent graduate of Drug Court. However, she stated she “need[s] more help” and, to that end, had made arrangements for extended in-house treatment at Recovery Unplugged. The Defendant admitted that, at the time of the hearing, the bag of pills was still in her house. The Defendant also called as a witness a representative from Recovery Unplugged who stated they were willing to immediately accept the Defendant into their program if the court would allow it.

At the close of proof, the Defendant did not outright ask the court to deny the State's motion but, instead, proposed holding the motion in abeyance pending her completion of an extended in-house treatment program at Recovery Unplugged. The trial court declined that invitation and, after recounting the procedural history of the case and the evidence introduced at the hearing, offered the following reasons for its decision to revoke the Defendant's bond:

The case law on a revocation of bond is fairly clear. It is mainly State v. Burgins as well as 40-11-141(b). And that is the Defendant at a hearing like this is entitled to written notice of the alleged grounds that has been complied with.

Disclosure of the evidence against the Defendant has been complied with. A meaningful opportunity to be heard and present evidence. That's been complied with today. The right to confront and cross examine witnesses. And then the right to make arguments in the defense.

There is no question that the conditions of both the order as well as the bond supervision order attached and part of that order by incorporation have been violated.

The Court has really no -- honestly -- there's been no rebuttal to the fact that [the Defendant] may very well be a drug addict. The problem the Court has here is the nature of [the Defendant's] actions.

I guess there probably has not been a case come before this Court where an addict has used drugs where they -- whether he or she got those in a legitimate matter unless they are abusing a prescribed drug.

In other words, a valid prescription for, let's say, pain medication that is just used wrongly. In this case what's really disturbing to the Court is the drug that apparently caused the death was screened for fentanyl is a loose drug. Either a loose pill or in an unmarked pill bottle in a Kroger sack that's kept by [the Defendant] among other drugs that either she was currently prescribed for mental health issues or all of which were long since out of date based on the prescription.

So, either [the Defendant] went to a previously prescribed medication bottle and thought it was a good idea to take a Percocet that she thought was

prescribed two years earlier. Or she knew it was a pressed pill, which we know by testimony today is true, and decided to take it any way.

The question becomes where did she get a pressed pill. Why is she keeping a pressed pill. Are there other pressed pills in the bag that now we know she still has at her house, which is of equal concern to the Court.

And, so, under the prong under the bond statute of protecting the community from the actions of [the Defendant], I think really the only action that the Court can take pursuant to 40-11-141(b) is to find that the State has carried their burden of proof. That [the Defendant] has violated several conditions of release.

And just to be specific, has violated the order specifically in has failed to maintain good and lawful behavior. Either taking a legend drug -- well, it wouldn't be a legend drug. It would be a scheduled drug outside of the prescription. Or taking a known pressed Percocet is clearly unlawful behavior. Also, testing positive for fentanyl is a violation of the order as well.

I don't have any doubt [the Defendant] needs help. My concern pretrial is to protect not only [the Defendant] but the public from someone who reaches into an old Kroger sack full of old pills and takes them.

So, based on the proof I have before me, I'm going to -- and based on the order back in December -- I'm going to order that the bond be revoked in this case pending trial or the conclusion of the case.

Standard of Review

This Court reviews release decisions of the trial court under an abuse of discretion standard. Tenn. Code Ann. § 40-26-103; *See State v. Melson*, 638 S.W.2d 342, 358 (Tenn. 1982) (trial courts have “very wide latitude in setting bail,” and appellate courts “are most reluctant to second-guess” the trial court). Our supreme court has held the abuse of discretion standard of review is a “less rigorous review” of a trial court’s decision and does not permit this Court to substitute its judgment for that of the trial court. *State v. McCaleb*, 582 S.W.3d 179, 185 (Tenn. 2019) (quoting *Lee Med., Inc. v. Beecher*, 312 S.W.3d 515, 524 (Tenn. 2010)). “A trial court abuses its discretion when it applies incorrect legal standards, reaches an illogical conclusion, bases its ruling on a clearly erroneous assessment of the proof, or applies reasoning that causes an injustice to the complaining party.” *State v. Phelps*, 329 S.W.3d 436, 443 (Tenn. 2010).

Discussion

The Defendant does not dispute the trial court's finding that she violated a condition of her bond. Instead, she argues the trial court failed "to articulate whether any additional bail conditions or an increased amount of bail would satisfy the trial court's stated concern regarding its duty to ensure the safety of the community." The Defendant emphasizes the proof she presented regarding Recovery Unplugged's willingness to immediately accept her into its in-house treatment program and argues the trial court's failure "to even reference Recovery Unplugged" before rendering its decision violates the safeguards expressed in *Burgins*. The State counters that the trial court properly followed the procedure outlined in *Burgins*. The State further argues the trial court was not required to "put on the record whether an additional bail condition or increased amount of bail would protect the safety of the community." The State urges this Court to conclude the trial court did not abuse its discretion by revoking the Defendant's bond.

Based upon a review of the information provided by the Defendant, and considering the parties' arguments, this Court concludes the trial court did not abuse its discretion in revoking the Defendant's bond. There is no dispute the Defendant violated a condition of her release. There is also no dispute the trial court held a hearing on the State's motion and afforded the Defendant written notice of the alleged grounds for revocation and the date, place, and time of the hearing, disclosure of the evidence against her, the meaningful opportunity to be heard and to present evidence, the right to confront and cross-examine witnesses, and the right to make arguments in her defense. *Burgins*, 464 S.W.3d at 310.

Burgins expressly provides that a trial court *may* revoke a defendant's bond upon finding proof of a violation of a condition thereof. *Id.* at 311. The Court agrees with the State that a trial court "*should* [] consider whether any additional bail conditions or an increased amount of bail would . . . protect the safety of the community." *Id.* (emphasis added). The Court disagrees with the Defendant's assertion the trial court did not consider an alternative to complete revocation, however. The trial court obviously heard the testimony of the Defendant and the representative from Recovery Unplugged. And despite not explicitly mentioning that evidence during its ruling, it implicitly found an alternative to revocation would not protect the community. Again, the Defendant did not include in her motion a copy of the State's prior motion to increase the original bond; thus, it is unknown what precipitated its filing. Nor did she include a copy of the amended bond, but the trial court stated during the hearing that the bond specifically provided it would be immediately revoked if the Defendant violated any condition imposed therein. The Defendant admitted at the hearing that she still had the bag of pills at home. The trial court emphasized that fact during its ruling: "The problem the Court has here is the nature of [the

Defendant's] actions"; "Why is she keeping a pressed pill. Are there other pressed pills in the bag that now we know she still has at her house, which is of equal concern to the Court." To that end, the court explained its duty is "to protect not only [the Defendant] but the public from someone who reaches into an old Kroger sack full of old pills and takes them," as the Defendant herself did on the occasion prompting the filing of the State's motion to revoke her bond.

Conclusion

In sum, the Defendant's procedural due process rights were safeguarded, as required by *Burgins*. Further, in light of the discussion above, the Court finds the trial court did not abuse its discretion by revoking the Defendant's pretrial bond. The Defendant's motion is, therefore, denied. Costs are taxed to the Defendant.

Easter, J., Wedemeyer, P.J., Ayers, J.