

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CHAMPAIGN COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 2010-CA-22
Plaintiff-Appellee	:	
	:	Trial Court Case No. 2010-CR-75
v.	:	
	:	
CAROLYN M. HAVENS	:	(Criminal Appeal from
	:	Common Pleas Court)
Defendant-Appellant	:	

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O P I N I O N

Rendered on the 3rd day of December, 2010.

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BROGAN, J.

{¶ 1} On July 20, 2010, Carolyn Havens appealed from the trial court's refusal to modify a condition of pretrial bond. Havens had been charged in Champaign County Common Pleas Court with aggravated burglary, burglary, criminal damaging, assault, and theft for breaking into her home. The court ordered her to

stay away from her home which she owns with her husband, Timothy, while these charges were pending. The charges apparently involved Havens' husband and his girlfriend. After the bond condition was set the girlfriend moved out of Ms. Havens' home and Havens' husband was sentenced to prison.

{¶ 2} With the alleged victims out of her home, Havens moved on June 14, 2010 to modify the bond so she could return home. The trial court took Havens' motion under advisement initially but then denied it on July 29, 2010. On the next day, Havens appealed that order to this court. On September 24, 2010, this court held the trial court's order was a final appealable order pursuant to R.C. 2505.02(B)(4). On October 19, 2010, Havens sought a stay of the bond condition in this court which we denied.

{¶ 3} On November 9, Havens' counsel notified this court that the criminal charges pending in Champaign County Common Pleas Court had been dismissed. Havens asked that we not dismiss her appeal as moot because she argued the issue is capable of repetition yet evading review. Havens also argues that the proper perimeter of bond conditions is an important one.

{¶ 4} In *Smith v. Leis*, 106 Ohio St.3d 309, 2005-Ohio-5125, the Ohio Supreme Court held that Smith's conviction did not moot Hamilton County's cash-only bond requirement. The court noted that the issue involved an important constitutional issue because it affects the types of bail that trial courts are authorized to grant in courts across the State of Ohio. In this matter, the issue involves whether a court can grant as a condition of bail an order that the accused stay away from her home during the pendency of a trial where she is accused of assaulting two people

who live in that home. This pre-trial bond condition was quite reasonable under the circumstances of this case. It became unusual when the trial court refused to modify the condition once the alleged victims left the Havens' home. There is little likelihood that this unusual condition of bond set by the court is likely to be repeated unlike the cash-only bonds routinely imposed in Hamilton County Common Pleas Court courtrooms. This appeal is hereby Dismissed as Moot.

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GRADY and McFARLAND, JJ., concur.

(Hon. Matthew W. McFarland, Fourth District Court of Appeals, sitting by assignment of the Chief Justice of the Supreme Court of Ohio).

Copies mailed to:

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