

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
MARION COUNTY**

STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 9-22-43

v.

CHADWICK ALLEN GREENAWALT, SR.,

OPINION

DEFENDANT-APPELLANT.

**Appeal from Marion County Common Pleas Court
Trial Court No. 22CR389**

Judgment Affirmed

Date of Decision: January 9, 2023

APPEARANCES:

***Edwin M. Bibler* for Appellant**

***Raymond A. Grogan, Jr.* for Appellee**

ZIMMERMAN, J.

{¶1} This appeal, having been placed on the accelerated calendar, is *sua sponte* being assigned and considered on the regular calendar pursuant to Loc.R. 12(1). Under the authority of Loc.R. 12(5), we have elected to issue a full opinion in lieu of a judgment entry.

{¶2} Defendant-appellant, Chadwick Allen Greenawalt, Sr., (“Greenawalt”), appeals the July 26, 2022 judgment entry of the Marion County Court of Common Pleas denying him bail. For the reasons that follow, we affirm.

{¶3} This case stems from the July 3, 2022 death of Natalie Hope Rudd (“Rudd”) at the Riverbend Campground in Marion County, Ohio.¹

{¶4} Greenawalt was arrested (without a warrant) and detained in jail on July 3, 2022. On July 5, 2022, the State filed a complaint in Marion County Municipal Court (“municipal court”) that included three criminal charges: Count One for murder in violation of R.C. 2903.02(B), (D) and R.C. 2929.02(B), an unclassified felony; Count Two for involuntary manslaughter in violation of R.C. 2903.04(A), (C), a first-degree felony; and Count Three for felonious assault in violation of R.C. 2903.11(A)(1), (D)(1)(a), a second-degree felony. The municipal court ordered that Greenawalt’s bond be set at “**\$500,000 CASH OR CORPORATE**” and that his preliminary hearing be scheduled for July 11, 2022.

¹ Rudd sustained two puncture wounds including one to the abdomen and one to the neck. She also had a slash mark on her upper right arm.

{¶5} However on July 6, 2022, prior to the preliminary hearing, he was indicted by the Marion County Grand Jury on seven criminal charges. The indictment included two counts of murder in violation of R.C. 2903.02(B), (D) and R.C. 2929.02(B), both unclassified felonies; three counts of involuntary manslaughter in violation of R.C. 2903.04(A), (C), all first-degree felonies; one count of felonious assault in violation of R.C. 2903.11(A)(1), (D)(1)(a), a second degree felony; and one count of felonious assault in violation of R.C. 2903.11(A)(2), (D)(1)(a), a second-degree felony. All seven criminal charges related to events occurring on July 3, 2022. An arraignment was scheduled for July 11, 2022.

{¶6} In advance of Greenawalt's scheduled arraignment, the State filed a motion requesting Greenawalt be held without bail pursuant to R.C. 2937.222. Greenawalt's trial counsel opposed the request. At his arraignment, Greenawalt appeared and tendered a not-guilty plea, and thereafter, the trial court detained him without bail pending a hearing on the State's request.

{¶7} The trial court held a denial-of-bail hearing on July 14, 2022. At the conclusion of the hearing, the trial court denied Greenawalt bail pursuant to R.C. 2937.222, issuing its judgment entry on July 26, 2022. (Doc. No. 24)

{¶8} Greenawalt now institutes a timely interlocutory appeal of the trial court's order pursuant to R.C. 2937.222(D). He raises two assignments of error, which we will address together.

Assignment of Error No. I

The trial court erred in granting the State’s Motion for No Bond.

Assignment of Error No. II

The trial court erred in not assessing bail for the Defendant-Appellant.

{¶9} In his assignments of error, Greenawalt argues that the trial court erred by denying him bail while awaiting trial. Specifically, in his first assignment of error, Greenawalt argues that the record is insufficient to support the trial court’s determination that he is not entitled to bail. In this second assignment of error, Greenawalt asserts that the trial court, notwithstanding the statutory framework set forth in R.C. 2937.222, erred by failing to examine the pretrial-release-and-detention factors under Crim.R. 46(C).

Standard of Review

{¶10} This is an issue of first impression for our district. Moreover, we recognize that the standard of review in these types of cases is far from settled amongst our sister appellate districts. *See State v. Knowles*, 6th Dist. Lucas No. L-22-1042, 2022-Ohio-3264, ¶ 22 (applying “‘sufficient evidence presented by which the [trial] court could have formed a firm belief or conviction in support of its finding[s].’”), quoting *State v. Brown*, 6th Dist. Erie No. E-06-025, 2006-Ohio-3377, ¶ 25; *State v. Williams*, 6th Dist. Lucas No. L-22-1012, 2022-Ohio-3858, ¶ 38 (same); *State v. Sowders*, 1st Dist. Hamilton No. C-220114, 2022-Ohio-2401, ¶

28 (concluding that the standard of review for a trial court’s findings under R.C. 2937.222 is whether “the trial court had sufficient evidence before it to satisfy the clear-and-convincing standard.”); *State v. Blackshear*, 6th Dist. Lucas No. L-21-1141, 2022-Ohio-230, ¶ 25, citing *State v. Henderson*, 10th Dist. Franklin No. 16AP-870, 2017-Ohio-2678, ¶ 5 (reviewing for an abuse of discretion); *State v. Foster*, 10th Dist. Franklin No. 08AP-523, 2008-Ohio-3525, ¶ 6 (same); *State v. Urso*, 11th Dist. Trumbull No. 2010-T-0042, 2010-Ohio-2151, ¶ 47 (using a mixed standard of review, similar to motions to suppress); *State v. Mitchell*, 2d Dist. Montgomery No. 28280, 2019-Ohio-2465, ¶ 24 (applying all three standards of review and “finding consistent results * * *”); *State v. Hawkins*, 8th Dist. Cuyahoga No. 109097, 2019-Ohio-5132, ¶ 47 (applying all three standards of review and “finding consistent results * * *”); and *State v. Jackson*, 8th Dist. Cuyahoga No. 110621, 2021-Ohio-4320, ¶ 40 (same).

{¶11} Significantly, we conclude that we need not address the conflict among our sister districts, since the trial court’s determination was correct under *any* of the above articulated standards of review.

Analysis

{¶12} Importantly, the State filed its motion under R.C. 2937.222(A), prior to Greenawalt’s arraignment. Significantly, Greenawalt does not dispute that all seven of his criminal charges meet the statutory criteria for his detention and a

denial-of-bail hearing under R.C. 2937.222(A). Rather, he argues that the evidence presented at the denial-of-bail hearing was insufficient to support the trial court's findings under R.C. 2937.222(B). Put more plainly—he disputes that he committed the charged offenses; that he poses a substantial risk of serious physical harm to any person or the community; and that no release conditions will reasonably assure the safety of the community at large.

{¶13} To address his assignments of error, we review R.C. 2937.222. Under R.C. 2937.222, a trial court may deny bail to a person accused of a criminal offense involving certain serious felonies, including murder or a first- or second-degree felony, after holding a hearing and making certain findings. R.C. 2937.222(A), (B). Under the statute, the trial court must find by *clear and convincing evidence* that (1) “the proof is evident or the presumption great * * *” that the accused committed the serious felonies of which he was charged, (2) that the accused “poses a substantial risk of serious physical harm to any person or to the community, * * *”, and (3) that “no release conditions will reasonably assure the safety of that person and the community.” R.C. 2937.222(B). Clear and convincing evidence is more than “a mere ‘preponderance of the evidence,’ but not to the extent of such certainty as is required ‘beyond a reasonable doubt’ in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be

established.” *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, ¶ 22, quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶14} In reaching its determination, the trial court must consider “all available information” regarding the following factors:

- (1) The nature and circumstances of the offense charged, including whether the offense is an offense of violence or involves alcohol or a drug of abuse;
- (2) The weight of the evidence against the accused;
- (3) The history and characteristics of the accused, including, but not limited to, both of the following:
 - (a) The character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, and criminal history of the accused;
 - (b) Whether, at the time of the current alleged offense or at the time of the arrest of the accused, the accused was on probation, parole, post-release control, or other release pending trial, sentencing, appeal, or completion of sentence for the commission of an offense under the laws of this state, another state, or the United States or under a municipal ordinance.
- (4) The nature and seriousness of the danger to any person or the community that would be posed by the person’s release.

R.C. 2937.222(C).

{¶15} Consistent with R.C. 2937.222, the trial court considered the denial-of-bail factors specifically enumerated above and made the requisite findings under the appropriate standard, clear and convincing evidence. (*See* Doc. No. 24).

{¶16} The record reveals that the State presented two witnesses at the denial-of-bail hearing, Detectives Stacy McCurry (“McCurry”) and Christy Utley, both employed by the Marion County Sheriff’s Office. The evidence from their testimonies revealed that Greenawalt was involved in a physical altercation with Rudd that resulted in her death. McCurry testified that an eyewitness observed Greenawalt appear to strike Rudd in the abdomen and neck.

{¶17} Further testimony revealed that the coroner concluded that Rudd’s death was caused by a sharp objection, most likely a knife, that severed her carotid artery and also cut a portion of another artery.

{¶18} Additional testimony revealed that the State has at least one witness that heard Greenawalt state that he was in possession of a knife in the hours preceding the altercation with Rudd, and that surveillance-video footage exists, from the campground store, that captured images of Greenawalt with a clip knife in his right-hand pocket.²

{¶19} The State also presented evidence that Greenawalt fled on his motorcycle while CPR efforts on Rudd were attempted and while the 9-1-1 emergency call was being placed by bystanders. Shortly thereafter, Greenawalt was apprehended by law-enforcement officers in the course of his flight. He was observed to have the odor of alcoholic beverage about his person; had visible

² The weapon involved in the incident had not been recovered by law enforcement at the time of the denial-of-bail hearing.

injuries on his face; and had blood on his hands and on his motorcycle. Once detained, Greenawalt stated to those officers, “You should go to the campground. There’s going to be chaos there.” (July 14, 2022 Tr. at 15).

{¶20} To address the substantial risk of serious physical harm Greenawalt poses to any person or to the community finding, and that, no release conditions would reasonably assure the safety of the community finding, the State presented additional evidence. Specifically, McCurry testified that Greenawalt had a criminal history, which included offenses of violence as well as alcohol and drug-related offenses. Moreover, he had previous convictions for felony offenses.

{¶21} In our review of the record and the evidence presented by the State at the denial-of-bail hearing, we conclude that the trial court did not err in determining that bail was not appropriate in the instant case.

{¶22} Turning to Greenawalt’s argument that the trial court failed to consider the pretrial-release-and-detention factors under Crim.R. 46(C), we note that the denial-of-bail factors under R.C. 2937.222(C) are substantially similar, though not identical to the Crim.R. 46(C)’s pretrial-release-and-detention factors. However, Crim.R. 46(A) sets forth an exception to the general rule in the Criminal Rules involving the denial of bail. Specifically, under Crim.R. 46(A) “[a] defendant may be detained pretrial, pursuant to *a motion by the prosecutor* or the [trial] court’s own motion, *in accordance with the standards and procedures set forth in the Revised*

Code.” (Emphasis added.) Crim.R. 46(A). Put more simply—R.C. 2937.222 operates as an exception to the scope of the Criminal Rules under the circumstances involving the denial of bail.³ *See* Crim.R. 1(C). *Compare with* Crim.R. 46(A). *See also* R.C. 2937.222.

{¶23} Even though the trial court did not specifically state in its judgment entry that it considered the pretrial-release-and-detention factors outlined in Crim.R. 46(C) *in addition to* the denial-of-bail factors under R.C. 2937.222(C), the record supports that the trial court considered those factors because the trial court noted Greenawalt’s record of appearance while issuing its ruling from the bench. *See* Crim.R. 46(C)(4) (delineating “record of appearance at court proceedings or of flight to avoid prosecution”). *Compare with* R.C. 2937.222(C) (containing no factors addressing whether the accused had previous failures to appear before the trial court).⁴ Importantly here, Greenawalt was apprehended *while in flight* from the scene in which Rudd was found dead.

{¶24} Moreover, it is clear to us that the statute enacted by the General Assembly and the criminal rule promulgated by the Supreme Court of Ohio are

³ We note that Ohio voters approved an amendment to the Ohio Constitution in the November, 2022 election, Ohio State Issue 1. 2022 HJR 2, am. effective Nov. 8, 2022. The amendment requires judges to consider public safety when determining a criminal defendant’s bail. *See* Ohio Constitution, Article 1, Section 9. However, the applicability of this amendment was not raised by the parties on appeal, and thus will not be addressed.

⁴ Notably, R.C. 2937.222(C) does not contain the specific phrase “of flight to avoid prosecution”; however, we recognize that a reasonable argument could be made that the building blocks of that information is contained with R.C. 2937.222(C)(3)(a) wherein the history and characteristics of the accused includes “family ties, employment, financial resources, length of residence in the community, [and] community ties * * *” all of which ultimately pertain to whether the accused is a flight risk.

designed to work in tandem since R.C. 2937.222(B) requires the trial court to consider whether no pretrial-release conditions will reasonably assure the safety of the person or the community and those conditions are set forth exclusively in Crim.R. 46(B).

{¶25} We conclude that the trial court was not *required* to consider the pretrial-release-and-detention factors pursuant to Crim.R. 46(C) in reaching its determination because, under the facts of this case, Crim.R. 46(A) directed the trial court to employ the standards and procedures set forth in R.C. 2937.222 and consider the denial-of-bail factors under R.C. 2937.222(C). However, R.C. 2937.222 does not preclude the trial court from considering the Crim.R. 46(C) factors *in addition to* those factors listed in R.C. 2937.222(C). Consequently, Greenawalt's argument that the trial court erred by failing to consider the pretrial-release-and-detention factors under Crim.R. 46(C) lacks merit.

{¶26} Accordingly, Greenawalt's first and second assignments of error are overruled.

{¶27} Having found no error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the judgment of the Marion County Court of Common Pleas.

Judgment Affirmed

MILLER, P.J. and WILLAMOWSKI, J., concur.