

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2021-KK-01592

VS.

MICHAEL WADE HALVERSON

IN RE: Michael Wade Halverson - Applicant Defendant; Applying For Supervisory Writ, Parish of Bossier, 26th Judicial District Court Number(s) 239510A; 239510B; 239510C, Court of Appeal, Second Circuit, Number(s) 54,327-KW C/W 54,328-KW; 54,329-KW; and 54,330-KW;

December 21, 2021

Writ application granted. See per curiam.

JTG

JDH

WJC

PDG

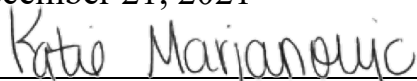
Weimer, C.J., would deny.

Crichton, J., dissent and assigns reasons.

McCallum, J., dissents for the reasons assigned by Justice Crichton.

Supreme Court of Louisiana

December 21, 2021



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2021-KK-01592

STATE OF LOUISIANA

VS.

MICHAEL WADE HALVERSON

On Supervisory Writ to the 26th Judicial District Court, Parish of Bossier

PER CURIAM:

Defendant, Michael Wade Halverson, was operating a rig truck on the interstate in Bossier Parish on June 10, 2020, when he caused a multivehicle collision that resulted in two fatalities. Defendant was arrested a year later and charged with two counts of negligent homicide pursuant to La.R.S. 14:32, one count of obstruction of justice pursuant to La.R.S. 14:130.1, one count of use of certain wireless telecommunications devices for text messaging and social networking prohibited pursuant to La.R.S. 32:300.5, and one count of reckless operation of a vehicle pursuant to La.R.S. 14: 99. His bail was set at \$485,000.

Bail must be set according to the factors listed in La.C.Cr.P. art. 316, which include the following:

- (1) The seriousness of the offense charged, including but not limited to whether the offense is a crime of violence or involves a controlled dangerous substance.
- (2) The weight of the evidence against the defendant.
- (3) The previous criminal record of the defendant.
- (4) The ability of the defendant to give bail.
- (5) The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.
- (6) The defendant's voluntary participation in a pretrial drug testing program.
- (7) The absence or presence in the defendant of any controlled dangerous substance.
- (8) Whether the defendant is currently out on a bail undertaking on a previous felony arrest for which he is awaiting institution of prosecution, arraignment, trial, or sentencing.
- (9) Any other circumstances affecting the probability of defendant's appearance.

(10) The type or form of bail.

While the circumstances of this case are tragic, we find the trial court abused its discretion in setting bail at \$485,000, which we find excessive and, therefore, in violation of the Eighth Amendment of the United States Constitution and La. Const. art. I, § 18.¹ Defendant is gainfully employed as a heavy-equipment operator² and is a life-long resident of Bossier Parish, where he has raised a family that he continues to financially and emotionally support. Defendant has no previous criminal record, and volunteered to participate in a pre-trial drug testing program. Additionally, the crime with which he is charged is not a legislatively-enumerated crime of violence, and no controlled dangerous substance use was alleged by the state. Defendant no longer operates a rig truck and currently only drives his personal truck to and from his place of employment. Finally, defendant lacks the financial ability to pay the amount of bail set by the trial court.

¹ The Eighth Amendment of the United States Constitution provides that “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

Additionally, the Louisiana Constitution prohibits excessive bail obligations:

Section 18. **(A) Excessive bail shall not be required.** Before and during a trial, a person shall be bailable by sufficient surety, except when he is charged with a capital offense and the proof is evident and the presumption of guilt is great. After conviction and before sentencing, a person shall be bailable if the maximum sentence which may be imposed is imprisonment for five years or less; and the judge may grant bail if the maximum sentence which may be imposed is imprisonment exceeding five years. After sentencing and until final judgment, a person shall be bailable if the sentence actually imposed is five years or less; and the judge may grant bail if the sentence actually imposed exceeds imprisonment for five years.

(B) However, a person charged with a crime of violence as defined by law or with production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Controlled Dangerous Substances Law, and the proof is evident and the presumption of guilt is great, shall not be bailable if, after a contradictory hearing, the judge or magistrate finds by clear and convincing evidence that there is a substantial risk that the person may flee or poses an imminent danger to any other person or the community.

La. Const. art. I, § 18.

² Defendant’s job does not require him to operate heavy machinery on public roadways.

We find that, pursuant to the dictates of La.C.Cr.P. art. 316, as well as the constitutions of Louisiana and the United States, defendant's total bail obligation should not exceed \$200,000. Therefore, we remand to the trial court to set bail in accordance with our ruling herein.