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State of Franklin v. Daniels

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State of Franklin v. Daniels

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OFFICE OF THE PUBLIC DEFENDER FOR THE STATE OF FRANKLIN
COUNTY OF JUNEAU

MEMORANDUM

To: Examinee
From: Jerome Bass, Public Defender
Date: September 9, 2020
Re: *State v. Quinn Daniels*, Case No. 2020 CF 83

We represent Quinn Daniels, a student at Franklin State College who is charged with the aggravated assault of a fellow student, Anthony Otis. Yesterday, the trial judge conducted a hearing to determine whether Quinn will be detained or released pending trial. The judge ordered both sides to submit briefs in support of their positions. The judge must base his decision solely on the evidence that was presented at the hearing and pursuant to the Franklin Bail Reform Act.

Quinn very much wants to be released pending trial, and our position is that he should be released. The state's position is that Quinn should be detained pending trial.

I need you to draft the argument section of the Defendant's Brief in Support of Pretrial Release. Because the state's brief is due at the same time as ours, we will not have another opportunity to respond to its potential arguments. Thus, in addition to making our best arguments, you should address and respond to any arguments you expect the state to make.

The purpose of a brief regarding pretrial release is to advocate on behalf of the client's release or to make the case for the least restrictive alternative possible. You should provide the court with the factual and legal bases for your request; be persuasive and to the point; cite the considerations in the Franklin Bail Reform Act and rely on those in making your argument.

Do not draft a separate statement of facts but be sure to incorporate the relevant facts into your argument. Be sure to use persuasive subject headings that succinctly summarize the reasons the judge should find in our favor. Each heading should be a specific application of a rule of law to the facts of the case. Use the facts in a manner that makes the strongest case for Quinn but remember that courts are not persuaded by exaggerated arguments or claims. Be sure to limit your argument to the facts that were presented at the hearing.

Any determination at a pretrial release hearing also requires findings of probable cause that the crime occurred and that the defendant committed the crime. We do not plan to challenge the basis for either of those findings, so do not address those issues in your argument.

OFFICE OF THE PUBLIC DEFENDER FOR THE STATE OF FRANKLIN
COUNTY OF JUNEAU

MEMORANDUM TO FILE

From: Jerome Bass
Date: September 3, 2020
Re: Interview with Quinn Daniels

I interviewed our client Quinn Daniels today. Quinn is charged with aggravated assault, a felony in Franklin that carries a maximum sentence of 10 years in prison. As defined by the statute, aggravated assault is a "battery which results in serious bodily injury." Franklin Criminal Code § 52.

Quinn is being held in the Juneau County jail pending a pretrial release hearing. I talked to him about the case as well as about his background.

Quinn is 19 years old and a 2019 graduate of Juneau High School. He is a sophomore at Franklin State College here in Franklin City. Until the incident that resulted in the charge against him, he lived on campus and was studying accounting. His career goal is to complete his degree and become a CPA.

Quinn wants very much to go home. He is willing to have restraints on his liberty but says that he would like the fewest restraints possible.

I advised Quinn that at a pretrial release hearing we do not want to reveal our trial strategy and discuss our defenses. I also told him that while he could testify on his own behalf at the pretrial release hearing, my strong recommendation is that he *not* testify. Quinn understands that his decision not to testify may limit the evidence that will be presented to the court at the pretrial release hearing, but he agrees with my recommendation that he not take the stand.

Email from Juneau County Prosecutor

TO: Jerome Bass <jbass@publicdefender.cty>
FROM: Georgette Simms <gsimms@franklincity.cty>
DATE: September 4, 2020, 10:05 AM
SUBJECT: State v. Quinn Daniels, Case No. 2020 CF 83

Jerome,

I am handling the Daniels case. We have a pretrial release hearing scheduled for September 8, 2020. I wanted to give you a heads-up that the state will be arguing for pretrial detention. As you know, Mr. Daniels is charged with a very serious crime that carries a maximum sentence of 10 years. In addition, he has a history of violence (his juvenile record for arson and aggravated assault).

It is my understanding that Mr. Daniels is no longer a student (having been suspended pending a disciplinary hearing) and that he has no gainful employment. And I expect that we will learn more at the hearing that will support our position as well.

See you in court at the hearing.
Georgette

Georgette Simms
Assistant District Attorney
County of Juneau

Excerpts from Transcript of Pretrial Release Hearing, September 8, 2020

DIRECT EXAMINATION OF DANA BROOKS BY ASSISTANT DISTRICT ATTORNEY GEORGETTE SIMMS

. . .

Q: Ms. Brooks, are you a student at Franklin State College?

A: Yes.

Q: Prior to the incident in question, did you know Mr. Anthony Otis or Mr. Quinn Daniels?

A: Yes, I have been dating Anthony Otis for a couple of months. I don't know Mr. Daniels.

Q: Ms. Brooks, were you at the party at Franklin State College on August 29, 2020?

A: Yes, I was. I was invited to the party by Anthony Otis. We went to the party together.

Q: Was there a lot of drinking at the party?

A: Yes.

Q: Did you have anything to drink?

A: I had one beer, but I was not drunk and I remember what happened pretty well.

Q: We are particularly interested in the actions of Mr. Daniels and Mr. Otis. Can you tell us about those?

A: Well, Anthony and I got to the party around 9 p.m. About 50 people were there. There was a lot of drinking going on. Anthony was drinking a lot and could hardly stand up straight. I kept telling him I wanted to leave, but he insisted on staying at the party.

Q: Was Mr. Daniels drinking?

A: I am not sure. But I think they were serving grain alcohol punch at the party and most people were drinking that.

Q: Continue.

A: Well, I was standing around and I saw Mr. Daniels playing with a hockey stick. He was swinging it around kind of wildly.

Q: Could you describe what you mean?

A: Well, he had the stick in his hand and he was swinging it above his head and then swinging it around his feet. He just kept swinging it everywhere.

Q: Did Mr. Daniels hit anyone?

A: Well, most people knew enough to get out of the way, but suddenly I saw him attack Anthony.

Q: What do you mean by "attack"?

A: Mr. Daniels had this kind of mean look in his eyes, and he went right at Anthony.

Q: Was either man saying anything?

A: Anthony said, "Man, are you crazy?" And Mr. Daniels said, "Maybe I am, but so are you."

Q: Did Mr. Daniels's hockey stick make contact with Anthony?

A: Yes. Mr. Daniels tripped Anthony with the hockey stick. Anthony went flying off his feet and landed on the top step of the basement stairs. Then he fell down the basement stairs.

Q: Do you know what happened next?

A: Mr. Daniels said, "He'll be fine. Don't worry about him." But someone must have called 911 because an ambulance came pretty quickly.

Q: Do you know how Mr. Otis is doing now?

A: He's still in the hospital. He was unconscious for three days and has a concussion. He has two broken ribs and a broken right leg. He's in a lot of pain.

* * *

DIRECT EXAMINATION OF GERTRUDE DANIELS BY JEROME BASS, PUBLIC DEFENDER, COUNSEL FOR DEFENDANT QUINN DANIELS

Q: Could you state your name for the record?

A: Gertrude Daniels.

Q: Ms. Daniels, how are you related to Quinn Daniels?

A: I am his mother.

Q: Is he a good boy?

A: Yes . . . most of the time.

Q: What is your occupation?

A: I am a nurse's assistant.

Q: What hours do you work?

A: I usually work double shifts. I go home to sleep and then I go back to work.

Q: Are you married?

A: Yes. I'm married to Del Daniels.

Q: What does your husband do?

A: He's a school janitor.

Q: And you are both the parents of Quinn, correct?

A: Yes. We're very proud of him. Quinn is the first one in our family to go to college. He graduated from Juneau High School, and he's now a sophomore at Franklin State College. Until this incident, he lived on campus. He was studying accounting and wants to be a CPA.

Q: How is he doing in school?

A: He was doing very well, but he also told me that he often felt out of place on a college campus where most of the students come from upper-middle-class families. He said that he was embarrassed that he didn't feel comfortable on campus, especially since we were so proud he was there. That made me very sad. He told me that he sometimes did things, like going to parties with other kids, that he really didn't want to do, just to fit in.

Q: Were you and your husband helping to pay for college?

A: Oh no, we don't have that kind of money. He's paying for college with loans and scholarships.

Q: Do you have any other children?

A: Yes, we have three younger daughters. They are all still living at home.

Q: How are they doing?

A: They are doing great. They are doing well in school and they mind well. They have never been in any trouble, and the teachers always tell us how good they are.

Q: Ms. Daniels, you know what the purpose of today's hearing is, don't you?

A: Yes, to decide whether Quinn gets to come home until his trial.

Q: If Quinn were released, could he come home and live with you and your husband?

A: Yes.

Q: If the judge were to release Quinn, would you do everything in your power to help him?

A: Of course.

Q: And would you follow any conditions that the judge laid down?

A: Yes.

Q: And if Quinn didn't follow the rules that the judge laid down, would you tell the judge about that?

A: If I have to, I will.

Q: Can your family afford to pay any bail amount for Quinn?

A: No, with all the kids and expenses, we don't have any extra money.

. . .

CROSS-EXAMINATION BY ASSISTANT DISTRICT ATTORNEY SIMMS

Q: Ms. Daniels, what has Quinn told you about the charges against him?

A: Not much. He said he was dared to drink and then doesn't remember much after that.

Q: Ms. Daniels, you are aware that Quinn has a juvenile record for arson and aggravated assault, aren't you?

A: Yes, but it was four years ago, and it really wasn't his fault. He was dared to do it and did not mean to hurt anyone. He finished his probation, did everything he was supposed to do, and lived at home the whole time. Quinn went to the psychologist's office like he was supposed to do and even did his public service work.

Q: Do you know what those juvenile charges were about?

A: Well, he was dared to start a fire in a trash can in the parking lot of the mall. He did that, and then someone was trying to put out the fire and got burned on his hands and arms. Quinn was just 15. And he got off probation about two years ago.

Q: And Quinn is now charged with aggravated assault again, isn't that correct?

A: I guess so.

Q: Now, getting to your home situation. Who lives in the house with you?

A: My husband, Del, and our three daughters.

Q: And your husband, Del—he likes a drink, doesn't he?

A: Well, I'm not sure I would go that far.

Q: He has been convicted of driving under the influence—DUI—three times, hasn't he?

A: Yes.

Q: Does he still drink?

A: Just when he is not working. Del never drinks at work.

Q: You work double shifts, so you are just home to sleep most of the time, isn't that correct?

A: Except on weekends. I have weekends off.

Q: And Quinn has been suspended from school because of these charges, isn't that correct?

A: Yes, he has.

Q: Because he's been suspended, he can't live on campus, go to classes, or take any courses, correct?

A: Yes, that's right.

Q: Does he have a job?

A: No, but I am sure he could find one.

CERTIFICATE OF COMPLETION OF PROBATION

Quinn Daniels was found to be delinquent on February 20, 2016. At the time, he was 15 years of age. He was adjudicated delinquent based on a finding that, by proof beyond a reasonable doubt, he committed acts of arson and aggravated assault. Mr. Daniels set fire to a trash can. A passer-by saw the fire and tried to put it out. That good Samaritan was seriously burned on his arms and his hands. As a result of the finding of delinquency, Quinn Daniels was placed on probation for an indeterminate time. He was required to complete psychological counseling and also to complete 100 hours of public service work.

Quinn Daniels has now completed all the requirements of probation and has not had any further charges brought against him. He is, therefore, released from probation.

Emma Lord

Emma Lord
Probation Officer

Sheila Jones

Sheila Jones
Juvenile Court Judge

Signed before me on this 10th day of August, 2018

Jane Mirren

Jane Mirren
Notary Public, State of Franklin

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Excerpts from the Franklin Bail Reform Act

In any case that involves a crime of violence and/or serious bodily injury for which the maximum term of imprisonment is 10 years or more, a judge shall hold a pretrial release hearing to determine whether any condition or combination of conditions will reasonably ensure the appearance of the criminal defendant at trial and will reasonably ensure the safety of the community.

(A) The judge shall order the defendant released on personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the defendant not commit a federal, state, or local crime during the period of release, unless the judge determines that such release will not reasonably ensure the appearance of the defendant as required or will endanger the safety of any other person or the community.

(B) In determining whether to release a defendant, the judge shall consider (1) the nature and circumstances of the offense charged, (2) the weight of the evidence against the defendant, (3) the history and characteristics of the defendant, and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release.

(C) If the judge determines that the release described in section (A) will not reasonably ensure the appearance of the defendant as required or will endanger the safety of any other person or the community, the judge shall order the pretrial release of the defendant subject to the condition that the defendant not commit a crime during the period of release and subject to the least restrictive further condition, or combination of conditions, that the judge determines will reasonably ensure the appearance of the defendant as required and the safety of any other person or the community, which may include but is not limited to the condition(s) that the defendant

(i) remain in the custody of a designated person, who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is reasonably able to assure the judge that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;

(ii) maintain employment or, if unemployed, actively seek employment;

(iii) maintain or commence an educational program;

(iv) abide by specified restrictions on personal associations, place of abode, or travel;

(v) refrain from excessive use of alcohol;

. . .

(xii) post a money bond; or

(xiii) satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant as required and to ensure the safety of any other person or the community.

If the judge determines that none or no combination of these conditions will reasonably ensure the appearance of the defendant as required or the safety of any other person or the community, the judge shall order the defendant detained.

(D) A rebuttable presumption arises that no condition or combination of conditions will reasonably ensure the safety of any other person or the community if the judge finds that

(i) the defendant has been convicted of or otherwise adjudicated to have committed an offense that involves serious bodily injury; and

(ii) a period of not more than five years has elapsed since the date of conviction or adjudication, or the release of the defendant from imprisonment, whichever is later.

State v. Donegan
Franklin Court of Appeal (2002)

The state has filed this interlocutory appeal challenging the trial judge's determination to release defendant Todd Donegan on personal recognizance pending trial. Donegan is charged with aggravated assault, a crime that involves serious bodily injury and for which the maximum punishment is 10 years in prison. At issue is whether the trial court's decision to release Donegan complies with the newly enacted Franklin Bail Reform Act (FBRA).

The Franklin legislature adopted the Bail Reform Act to limit the use of money bail bonds. The idea behind the statute is that no person should be detained pending trial solely because he or she lacks the funds to pay for a money bail bond. Instead, the statute creates a system that imposes the least restrictive alternatives on a defendant's release pending trial.

If a defendant is charged with a crime of violence or a crime that involves serious bodily injury for which the maximum punishment is 10 years or more, the trial judge is required to hold a hearing to determine whether, and under what conditions, the defendant should be released pending trial. At that hearing, the trial judge should hear evidence about all aspects of the defendant's character, background, and criminal history. *See* FBRA § B. In addition, the judge should consider the nature and circumstances of the offense charged, the weight of the evidence against the defendant, and the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release. *Id.*

The judge is mandated to release the defendant on personal recognizance (essentially on the promise that the defendant will appear in court as required) or upon execution of an unsecured appearance bond (a bond that will come due only if the defendant fails to appear in court as required), unless the judge makes a specific finding that the release will not reasonably ensure the defendant's appearance or will endanger the safety of any other person or the community.

If the judge determines that release on recognizance or release on unsecured appearance bond is not appropriate, then the judge is required to release the defendant under the least restrictive means necessary for ensuring his or her appearance and ensuring the safety of the community. The statute provides a nonexclusive list of conditions that may be considered by the trial judge.

In this case, Donegan is charged with aggravated assault, a crime that involves serious bodily injury and for which the maximum punishment is 10 years in prison. Donegan is alleged to have gotten into a bar fight and hit a fellow patron over the head with a beer bottle. The victim

sustained multiple lacerations to the face, was taken to the hospital, and was released that night. The weight of the evidence against Donegan is substantial; five unbiased witnesses reported that they observed Donegan's actions during the altercation.

As to Donegan's personal history, a neighbor testified for the state that she often hears lots of yelling and arguments from the Donegans' home. The neighbor also testified that there are often "lots and lots" of empty beer cans outside the Donegans' home.

Donegan has no previous convictions for any offenses. He submitted proof that he supports himself and his family as a truck driver. His wife testified that he is a hard worker, supports his family, and has no previous incidents of violence.

Citing this history, and despite the weight of the evidence against Donegan and the negative testimony from the neighbor, the trial judge found that release on recognizance will ensure the appearance of the defendant. The judge further found that Donegan does not pose a threat to the safety of the community or to any other person. We find that the trial judge did not abuse her discretion in making these findings, and we therefore affirm.

State v. Ross
Franklin Court of Appeal (2009)

This is an interlocutory appeal of the trial court's decision to detain the defendant pending trial. Defendant Sharon Ross is charged with manslaughter in the death of her boyfriend. In making its determination that Ross be held in custody, the trial court relied heavily on Ross's juvenile record. We reverse.

Franklin Bail Reform Act

Under the Franklin Bail Reform Act (FBRA), a criminal defendant must be released pending trial unless a judicial officer finds that no "condition or combination of conditions will reasonably ensure the appearance of the criminal defendant at trial and will reasonably ensure the safety of the community." The purpose of the Franklin Bail Reform Act is to ensure the pretrial release of defendants who do not pose a risk of failing to appear for court or of danger to the community while at the same time detaining those individuals whose release would compromise the safety of the community. However, Section D of the Act provides:

> A rebuttable presumption arises that no condition or combination of conditions will reasonably ensure the safety of any other person or the community if the judge finds that (i) the defendant has been convicted of or otherwise adjudicated to have committed an offense that involves serious bodily injury; and (ii) a period of not more than five years has elapsed since the date of conviction or adjudication, or the release of the defendant from imprisonment, whichever is later.

The FBRA does not indicate whether a determination of delinquency for an offense "that involves serious bodily injury" should be considered equivalent to an adult conviction for the same offense. Within the last five years, Ms. Ross has been adjudicated delinquent for the offenses of assault with intent to commit murder and aggravated assault. Both offenses involve serious bodily injury.

To trigger Section D, the person must have been convicted of "or otherwise adjudicated to have committed" an offense that involves serious bodily injury. Thus the statute presupposes that an adult conviction is not required. But this does not necessarily answer the question whether a juvenile adjudication suffices.

Application of FBRA Section D to Juvenile Adjudications

The juvenile system is different from the adult criminal system. The principal purpose of the juvenile system, unlike the adult system, is treatment and rehabilitation. We are trying to help our children, not punish them. We also understand that juvenile adjudications are different from adult convictions. Juveniles are adjudicated to be delinquent, rather than being found guilty of a crime. To be adjudicated delinquent, the juvenile must be found by proof beyond a reasonable doubt to have committed an act that would be a crime if the child were an adult. Consequently, any child who is adjudicated a delinquent has been found guilty of committing all the elements of the crime by the same standard as an adult, but with different ramifications.

Consistent with that concern for public safety, it would be counterintuitive to exclude juvenile adjudications from the scope of the provision. If the purpose of creating the rebuttable presumption is to protect society, society would be ill-served if we failed to include violent juvenile offenses and juvenile offenses that involve serious bodily injury within the provision's ambit.

Thus, consistent with the purposes behind the juvenile system, we determine that juvenile adjudications, just like adult convictions, create a presumption of detention. However, we conclude that it is also consistent with the purposes behind the juvenile system that when assessing a presumed pretrial detention based on juvenile adjudication, that presumption may be overcome by less evidence than would be required in a case involving an adult conviction. We reach this result because the purpose of the juvenile system is to rehabilitate the juvenile. In addition, minors' brains have not developed to their full potential, and thus children who are delinquent are not as morally culpable as adults who commit crimes.

Because the trial court erroneously required the same amount of evidence to rebut the presumption created by the juvenile adjudication as it would have to rebut the presumption created by an adult conviction, we remand this case for further proceedings.

Application of FBRA Section B to Juvenile Adjudications

There is a second section of the FBRA that concerns juvenile adjudications, and we will address that issue to provide additional guidance to the trial court on remand.

Under Section B of the FBRA, the trial court is required to consider the following factors when determining whether to order pretrial release: (1) the nature and circumstances of the offense charged, (2) the weight of the evidence against the defendant, (3) the history and characteristics of the defendant, and (4) the nature and seriousness of the danger to any person or the community

that would be posed by the defendant's release. By requiring consideration of the defendant's history and characteristics, the FBRA broadly authorizes the trial court to consider a defendant's past conduct as one of many permissible factors in evaluating suitability for pretrial release.

A defendant's prior adjudications of delinquency and the nature of his or her juvenile offenses are logically part of his or her "history and characteristics" and indicative of the danger he or she poses to the community. As noted, we appreciate that the objectives of the juvenile justice system generally differ from those of the adult criminal justice process. Nonetheless, courts must consider the "whole person" in deciding whether that person's release poses a safety risk to the community.

Thus, under Section B an adult defendant's prior juvenile record may properly be considered in determining pretrial release, particularly if the juvenile adjudications are relatively recent, numerous, or severe.

In the case before us, Ross admitted to police that she strangled her boyfriend, and the physical evidence against her is very strong. Ross is 18 years old. She has no adult record; nonetheless, she has a long and violent juvenile history, including findings of delinquency for assault with intent to commit murder, armed robbery, aggravated assault, and kidnapping. Her most recent adjudication of delinquency was for an armed robbery that occurred less than one year ago. Ross presented proof that she has suffered from depression, that she was abused as a child, and that she has support from several social services agencies in the community. The proof also disclosed that Ross dropped out of school when she was 16 and has essentially been living on the streets since then.

We reverse because of the trial court's misapplication of FBRA Section D. We add that we would not find an abuse of discretion if the trial judge were to have detained the defendant pretrial based on these facts. The record demonstrates that Ross has juvenile adjudications that are relatively recent, numerous, and severe and would support a trial judge's finding that her release would pose a risk to public safety.

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The problem is set in the fictitious state of Franklin, in the fictitious Fifteenth Circuit of the United States. Columbia and Olympia are also fictitious states in the Fifteenth Circuit. In Franklin, the trial court of general jurisdiction is the District Court, the intermediate appellate court is the Court of Appeal, and the highest court is the Supreme Court.

You will have two kinds of materials with which to work: a File and a Library. The first document in the File is a memorandum containing the instructions for the task you are to complete. The other documents in the File contain factual information about your case and may include some facts that are not relevant.

The Library contains the legal authorities needed to complete the task and may also include some authorities that are not relevant. Any cases may be real, modified, or written solely for the purpose of this examination. If the cases appear familiar to you, do not assume that they are precisely the same as you have read before. Read them thoroughly, as if they all were new to you. You should assume that the cases were decided in the jurisdictions and on the dates shown. In citing cases from the Library, you may use abbreviations and omit page references.

Your response must be written in the answer book provided. If you are using a laptop computer to answer the questions, your jurisdiction will provide you with specific instructions. In answering this performance test, you should concentrate on the materials in the File and Library. What you have learned in law school and elsewhere provides the general background for analyzing the problem; the File and Library provide the specific materials with which you must work.

Although there are no restrictions on how you apportion your time, you should allocate approximately half your time to reading and digesting the materials and to organizing your answer before you begin writing it. You may make notes anywhere in the test materials; blank pages are provided at the end of the booklet. You may not tear pages from the question booklet.

Do not include your actual name anywhere in the work product required by the task memorandum.

This performance test will be graded on your responsiveness to the instructions regarding the task you are to complete, which are given to you in the first memorandum in the File, and on the content, thoroughness, and organization of your response.