

IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL LAW DIVISION
2018/CRI/bail/00832

BETWEEN

D'EANGELO PATRICK CULMER

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: **The Hon. Justice Neil Brathwaite**

Appearances: **Mr. Stanley Rolle for the Applicant**
 Ms. Erica Ingraham for the Respondent

Hearing Date: **11th December A.D. 2024**

Ruling Date: **28th January A.D. 2025**

RULING ON BAIL

[1.] The Applicant was arraigned in the Magistrate's Court on 16th February 2024 on charges of Murder and Attempted Murder (2 Counts). He seeks bail, avers that he is 34 years old and a father of five, that he was employed as a construction worker at Brown's Construction, and as a part time fisherman, that he has previous convictions, and may have another pending matter, but that the charges of Unlawful Possession and Grievous Harm which the Respondent claims are pending are no longer relevant, as the Grievous Harm matter does not exist, and the Unlawful Possession matter has been discharged. The Applicant claims that the claim that he committed these offences is false, that he is a helpful people's person, that he is not associated with any gang, and that he is medically unwell. He maintains his innocence, and suggests that if not granted bail he will be unable to prepare his defence and hire a private attorney.

- [2.] In seeking to oppose the application, the Respondent proffered the affidavit of Davina Pinder, Counsel in the Office of the Director of Public Prosecutions, to which are exhibited a number of reports. From those reports, it can be gleaned that the Applicant has been identified as the person who is alleged to have fired shots from a vehicle at a group of persons on 31st January 2024, resulting in injuries to several persons and the death of Rudiska Bethel.
- [3.] The Respondent also notes that the Applicant has convictions for Stealing, Receiving, Attempted Shop Breaking, Assault with a Dangerous Instrument, Threats of Death, Causing Harm, Possession of Dangerous Drugs, Fraud by False Pretences, Conspiracy to Commit Fraud, and Breach of Curfew. The Applicant is also said to have pending matters for Unlawful Possession and Grievous Harm, for which he was on bail, but which he refutes.
- [4.] Counsel on behalf of the Applicant relies on the constitutional presumption of innocence and the right to bail, and suggest that there is no evidence that the anonymous witness can be believed, as that evidence has not been tested, with the result that the court cannot be satisfied that the evidence is cogent. It was further submitted that the Applicant has strong ties to this community and is not a flight risk, and counsel referenced past cases in which even persons who were not Bahamian citizens have been granted bail. The court was therefore urged to accept that conditions could be put in place to ensure the attendance of the Applicant at trial.
- [5.] In response, the Respondent submits that the evidence is cogent, as the Applicant has been identified as the person who fired shots at a number of persons, and that the Applicant is therefore a threat to public safety given his previous convictions and the nature of the instant offences. Counsel further suggest that the Voluntary Bill of Indictment is to be served in February 2025, so that delay is not in issue. It was finally submitted that, even if the pending matters were discharged, it does not change the fact that Applicant was on bail at the time he was charged with the instant offences, which is a relevant factor to be considered.
- [6.] The Applicant in this matter applied for bail in May 2024. That application was considered and refused, on the basis that, having regard to the nature and circumstances of this incident, the antecedents of the Applicant, as well as the pending matters, this court was satisfied that the Applicant posed a threat to public safety and order, and that there was a risk of re-offending. I bear in mind the duty of the court to consider each application afresh on its merits, as well as the presumption of innocence and the balancing act between the right to liberty of the subject and the need to protect the

public inherent in bail applications. Having considered the matter afresh, I note the submission of counsel that the evidence has not been tested, and cannot be considered reliable. In my view, those are matters for trial, where the evidence will be tested. At this stage, the court need only be satisfied that there is evidence which rises to the level of a prima facie case that the Applicant committed the offences with which he is charged. I am satisfied that the evidence rises to the requisite level.

[7.] Having regard to the antecedents of the Applicant, as well as the nature and circumstances of these offence, I remain satisfied that the Applicant poses a risk to public order and safety, and that the Applicant is likely to re-offend, and that those risks cannot be ameliorated by any conditions which might be imposed.

[8.] In the circumstances and having regard to the foregoing reasons I find that the Applicant is not a fit and proper candidate to be admitted to bail. Bail is therefore denied.

Dated this 28th day of January A.D., 2025



**Neil Brathwaite
Justice**

