

IN SNOHOMISH COUNTY SUPERIOR COURT
STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	
Plaintiff,)	NO. _____
)	
vs.)	MOTION AND DECLARATION
)	FOR RELEASE ON PERSONAL
_____,)	RECOGNIZANCE
)	
Defendant.)	
_____)	

MOTION

COMES NOW the defendant, by and through his/ her attorney of the Snohomish County Public Defender Association, and moves the court for an order releasing him/ her on personal recognizance due to the presumption of release under CrR 3.2, the current state of emergency in Snohomish County and the increased risk presented by the confines and living quarters of the Snohomish County jail. This motion is based on the following declaration and the on the records and files herein.

DATED this _____ day of _____, 2020.

Attorney for Defendant WSBA #

DECLARATION

I, _____, am the attorney appointed to represent the defendant and declare that the forgoing is true and correct based off information and belief:

1. My client is currently booked into the Snohomish County Jail and is being held on bail in the amount of _____. The defendant has been charged with _____, the standard range is _____. This is a non-violent offense. My client's criminal history is attached hereto as **Exhibit A. [Insert booking date if the client is at or near CFTS on the standard range]**
2. My client has no financial ability to post bail and has been appointed to representation by my office and therefore found to be indigent by the Office of Public Defense.
3. As of March 12, 2020, Snohomish County Superior Court has issued emergency measures to assist in government efforts to slow the spread of the virus known as COVID-19. These measures include the suspension of jury trials at least until April 1, 2020.
4. Certain factors have been disclosed by the Centers of Disease Control that identify high risk members of the public including those who are over the age of 60, those who have underlying medical conditions such as diabetes, COPD or other respiratory illnesses, those who are HIV positive, those who have compromised liver functions caused by hepatitis, and those who are pregnant.
5. My client is in a high-risk category: _____. **[If client is showing current signs of illness, describe here, e.g. fever/cough].**
6. The environment of a jail leaves those in high-risk categories both of increased risk of exposure as well as increased risk of mortality or developing serious illness. Please see the attached reader, attached hereto as **Exhibit B**, which goes into further depth on the risk present in our jail systems.

I certify and declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED in Everett, Washington, this _____ day of _____, 2020.

Attorney for Defendant WSBA #

ARGUMENT

Defense respectfully requests this Court take into consideration the recent change in circumstances in the setting of bail in my client's case based on developing information about the risk and spread of the novel virus known as COVID-19. The Snohomish County Jail environment presents acute risk in the spread of the illness as it is a confined space, the meals are prepared and distributed by other inmates, and there is a set amount of readily available medical care and supplies. In this environment, the recommendations for social distancing are impossible for inmates to follow.

Bail is not the time to hold a defendant accountable. CrR 3.2 presumes the release of all defendants charged in noncapital cases. Given the current state of emergency and ongoing attempts to curb the spread of this virus, defense is requesting the Court take note of my client's lack of violent criminal history and release him/ her at this time. The medical staff of the jail are limited in their capacity to treat emergent cases and the custodial guards have no reasonable measures they can take to effectively distance themselves from the inmates in the jail.

To date, the Court has suspended a defendant's right to jury trial while our communities attempt to understand and adapt to the current emergency in order to protect those who are the most medically vulnerable in our society. That includes many of our low-income clients who deserve the same concern and compassion in accordance with current medical information as those in the rest of our community. Other measures have included directives to limit bookings to mandatory arrest only offenses. Defense proposes the release of those accused of non-violent offenses and those who fall into an increased risk category as an additional reasonable measure we can take to prevent the spread of the illness and reduce the risk of high mortality.

Little imagination is required to see the challenges of a COVID-19 outbreak at the jail and what our co-workers would face were such an outbreak to occur. The amount of people who cycle in and out of the jail on a daily basis and return to their families, to their communities, to their homes, presents a unique threat in the spread of this illness. This includes not just the staff and deputies, but also defendants who are booked and released at a high rate of turnover. Our office has worked with the medical staff at the jail for many years and does not agree with or intend any disparagement of their services. However, their resources are limited, their spaces is limited, and their staff is limited. Where an inmate is facing a non-violent offense, and has little to no violent criminal history, release should be our immediate response to help control the spread of the illness and to conserve resources where they will surely be needed.

This measure is not unprecedented. In San Francisco, where 14 inmates have already been diagnosed with COVID-19, defense and prosecutors are working together to identify the most at-risk in our populations and request their release. This same policy should apply to any who are facing a non-violent offense.

If the setting of bail is not the time to hold a defendant accountable for the crime of which they have been accused, then surely it is not the time to require some of the most medically vulnerable and highest risk among us to face this threat with no possibility of reasonable measures to prevent themselves from exposure. Defense respectfully requests the Court release my client on personal recognizance.

DATED this _____ day of _____, 2020.

Attorney for Defendant WSBA