



## Administrative Office of the Courts

FOR IMMEDIATE RELEASE

May 22, 2023

Contact: Barry Massey, public information officer  
[bmassey@nmcourts.gov](mailto:bmassey@nmcourts.gov)  
505-470-3436

New Mexico Supreme Court opinion provides guidance about pretrial detention

SANTA FE – The state Supreme Court today issued an opinion providing guidance to district courts in deciding pretrial detention requests from prosecutors.

In a unanimous opinion, the justices clarified the analysis that courts should follow in determining whether legal requirements have been met for a person charged with a felony to be held in jail while awaiting trial.

Under state law, a felony defendant may be detained if prosecutors file a written motion and prove to a district court that the charged person is dangerous and that “no release conditions will reasonably protect the safety of any other person or the community.”

The Court’s opinion provides the legal reasoning for an order by the justices in February that reversed a district court’s denial of a motion for pretrial detention of Joe Anderson, a Bernalillo County man charged with first-degree murder.

The justices held that the district court abused its discretion in denying the prosecution’s detention request and it had followed the wrong analytical framework in making its determination.

“In this case, ample evidence showed that the Defendant was unlikely to comply with release conditions and that the public would be put at significant risk should he fail to comply with release conditions,” the Court wrote in an opinion by Justice Briana H. Zamora.

District courts must undertake a two-prong analysis in pretrial detention decision-making: The first is determining whether the defendant is dangerous, and the second prong is whether the state has proven there are no conditions or restrictions that can be imposed on a defendant – if released – to reasonably protect the public. In analyzing both prongs, district courts must consider a range of factors outlined in a rule of criminal procedure governing pretrial detention ([Rule 5-409](#)). Those factors include the “nature and circumstances” of the charged crime, the

defendant's history, and the "nature and seriousness of the danger to any person or the community that would be posed by the defendant's release."

"All factors are relevant to both prongs because a defendant's dangerousness is not an entirely separate consideration from whether release conditions can reasonably protect the safety of the public; rather, the nature of the defendant's dangerousness informs whether the public can be kept reasonably safe from that danger by the imposition of release conditions," the Court wrote. "Thus, if a district court applies the Rule 5-409 factors and determines that a defendant is dangerous, it should not cordon off those facts that it considered in the dangerousness analysis and limit itself solely to the evidence that it did not yet consider in order to rule on release conditions."

District courts should take a "holistic, commonsense approach" in the analysis about possible release conditions, the justices explained.

"This second prong of the pretrial detention analysis, like the first prong of dangerousness, must be proven by clear and convincing evidence. However, the State must only prove that no release conditions can *reasonably* protect the public, not that no release conditions can *possibly* protect the public," the Court wrote.

As part of its analysis, "the district court must consider not only whether a defendant is likely to comply with release conditions but also the likely consequences to any person or the community should a defendant fail to comply," the Court explained.

"That additional inquiry is related to, and must be viewed in light of, the magnitude of a defendant's dangerousness," the Court stated. "For example, a defendant with a history of violent crimes who stands accused of a new violent crime may pose a significant and unjustifiable risk to the safety of any person or the community if the defendant fails to comply with release conditions."

The Court made clear, however, that district courts cannot "rely solely on the charged offense to order a defendant's detention." A district court "must always conduct a totality of the circumstances analysis in reaching a decision" on a motion for the pretrial detention of a felony defendant, the Court emphasized.

###

To read the decision in *State v. Anderson*, No. S-1-SC-38977, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/521795/index.do>