

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-11-1112

Appellee

Trial Court No. CR0201101326

v.

Michael Degens

**DECISION AND JUDGMENT**

Appellant

Decided: June 21, 2011

\* \* \* \* \*

Julia R. Bates, Lucas County Prosecuting Attorney, and  
David F. Cooper, Assistant Prosecuting Attorney, for appellee.

Martin E. Mohler, for appellant.

\* \* \* \* \*

PER CURIAM.

{¶ 1} This matter is before the court on the motion of defendant-appellant,  
Michael Degens, for bail and suspension of the execution of his sentence pending appeal.  
The state has filed a memorandum in opposition.

{¶ 2} App.R. 8(B) provides: "Application for release on bail and for suspension of execution of sentence after a judgment of conviction shall be made in the first instance in the trial court. Thereafter, if such application is denied, a motion for bail and suspension of execution of sentence pending review may be made to the court of appeals or to two judges thereof. The motion shall be determined promptly upon such papers, affidavits, and portions of the record as the parties shall present and after reasonable notice to the appellee."

{¶ 3} In addition, 6th Dist.Loc.App.R. 17 reads: "When a party files an application for release on bail and suspension of execution of sentence pursuant to App.R. 8(B), a memorandum in support shall be filed with the application in this court. The party's memorandum shall contain, but is not limited to, the following information, *which shall be supported by the papers, affidavits, and portions of the record* referred to in App.R. 8(B): (1) confirmation that the motion for release on bail was denied by the trial court, (2) a statement of the offense for which the party was found guilty and the sentence imposed by the trial court, (3) a listing of the party's prior convictions, if any, (4) a listing of current charges pending against the party, (5) a statement as to whether the party is currently employed, the name of the party's employer and for how long the party has been employed, (6) a statement of the amount of bail the party is requesting and in what manner the bail will be secured, (7) a statement of the possible assignments of error, and (8) a statement of defendant's family or other community ties. Failure to comply with this rule may result in the automatic denial of the application." (Emphasis added.)

{¶ 4} In his present motion, appellant states that on April 20, 2011, he was convicted of one count of child endangering, in violation of R.C. 2919.22(E)(2)(C), a third degree felony, and sentenced to four years in prison. He was also ordered to successfully complete the ODNR sex offender program and the ODNR substance abuse and alcohol treatment programs. He then discusses his personal history, ties to the area, employment history, states where he would be employed if released, and discusses his lack of a criminal record. Further, appellant discusses potential appellate issues and states that given his physical handicap (loss of his right arm), he would be in harm's way if he were transferred to an institution for sex offenders, which he contends he is not. Finally, appellant asserts that he is not a flight risk and that he never fled or violated the terms of his own recognizance bond in the proceedings below.

{¶ 5} Based on the above, appellant requests that we reimpose an OR bond or a supervised release bond during the pendency of this appeal.

{¶ 6} Appellant's motion does not comply with App.R. 8(B) or 6th Dist.Loc.App. R. 17. We first note that appellant's motion does not confirm or even address the issue of whether a motion for release on bail was denied by the trial court. Nevertheless, our own independent review of the trial court's docket reveals that the court did in fact deny appellant's motion for release on bail. Appellant's motion, however, is not supported by any papers, affidavits or portions of the record in relation to any of the eight factors set forth above and as contemplated by the rules. Appellant's statement that "All of the

information contained in this request is a matter of public record in the trial court," is not sufficient.

{¶ 7} Accordingly, appellant's motion for bail and stay of execution of sentence pending appeal is found not well-taken and is denied. It is so ordered.

MOTION DENIED.

Peter M. Handwork, J.

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JUDGE

Mark L. Pietrykowski, J.

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JUDGE

Stephen A. Yarbrough, J.  
CONCUR.

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JUDGE