

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT,
IN AND FOR FLAGLER COUNTY,
FLORIDA.

CASE NUMBER: 2018-CF-137

STATE OF FLORIDA,
Plaintiff,

vs.

LARRY ANTHONY CAVALLARO,
Defendant.

**DEFENDANT'S MOTION TO RELEASE DEFENDANT ON HIS OWN
RECOGNIZANCE, INTO THE PRE-TRIAL RELEASE PROGRAM, TO SET BOND
AND/OR OTHER CONDITIONS**

COMES NOW the Defendant, by and through undersigned counsel, and pursuant to Sec. 903.035(2) and 903.046, Fla.Stat. (2019), and R.Crim.P. 3.131 requests this Court enter an Order Releasing the Defendant On His Own Recognizance, into The Pre-Trial Release Program, Setting Bond and/or other conditions (Home Confinement, GPS Monitoring, etc.), and as grounds states as follows:

1. That the Defendant was arrested on a Warrant in the above-noted matter on the 7th day of June, 2019 alleging charges of "Sexual Battery Specified Circumstance Threat/Coerce, a felony of the First Degree, and bond was set in the amount of "none".

2. That the Bond schedule for a First Degree Felony in Flagler County is \$15,000.00.

3. That "unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of a municipal or county ordinance shall be entitled to pre-trial release on reasonable conditions." ART. 1, Sec. 14 Fla. Const.

4. That "the purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal Defendant". Sec. 903.046(1), Fla. Stat. (2013).

5. That "when determining whether to release the Defendant on bail or other conditions, and what that bail or those conditions may be, the Court shall consider:

- (a) The nature and circumstances of the offense charged.
- (b) The weight of the evidence against the Defendant.

- (c) The Defendant's family ties, his length of residence in the community, his employment history, his financial resources, and his mental condition.
- (d) The Defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at Court proceedings...
- (e) The nature and probability of danger which the Defendant's release poses to the community.
- (f) The source of funds used to post bail.
- (g) Whether the Defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.
- (h) The nature and probability of intimidation and danger to victims.
- (i) Any other facts that the Court considers relevant." Sec. 903.046(2), Fla. Stat. (2019).

6. That "there is a presumption in favor of release on non-monetary conditions for any person who is granted pre-trial release. The judicial officer shall impose the first of the following conditions of release which will reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process; or, if no single condition gives that assurance, any combination of the following conditions:

- (i) Personal recognizance of the Defendant;
- (ii) Execution of an unsecured appearance bond in an amount specified by the Judge;
- (iii) Placing restrictions on the travel, association, or place of abode of Defendant during the period of release;
- (iv) Placing the Defendant in custody of a designated person or organization agreeing to supervise him;
- (v) Requiring the execution of bail bond with sufficient and solvent sureties, or the deposit of cash in lieu thereof; provided, however, that any criminal Defendant who is required to meet monetary bail or bail with any monetary component may satisfy said bail by providing an appearance bond.
- (vi) Imposing any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring the

person to return to custody after specified hours."

7. That the following factors confirm that the Defendant's release on conditions will assure her presence at all of her Court appearances, will assure the integrity of the judicial process, and will reasonably protect the community from risk of physical harm to persons:

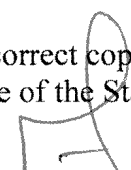
- (a) Prior to his arrest in Orange County, Florida on June 7, 2019 the Defendant resided at 2500 Lee Road, Unit 226, Winter Park, Florida 32789, in a condominium he rents, and in which he has resided since approximately 2016.
- (b) Prior to the above-noted residence, the Defendant resided at 1215 Via Del Mar in a home he rented, and in which he resided for a couple of years.
- (c) Prior to the aforementioned residence, the Defendant resided at Whispering Waters Condominiums in a condominium he owned and in which he resided for 3-4 years.
- (d) Prior to the above-noted residence, the Defendant resided at 856 Park Lake Court in a home he owned and in which he resided for 25 years; the Defendant has been a resident of the Central Florida area since 1975, approximately 44 years.
- (e) The Defendant owns 8 acres of improved, fully developed land in the city of Deltona, Florida; 20 years ago the Defendant purchased and developed the land, 20 acres of which was for the City of Deltona.
- (f) The Defendant owns 4 mobile home parks, located in 4 different cities, in North Carolina with a total of 150 lots (Mebane, Siler City, Sanford, Stanfield).
- (g) Prior to his arrest, the Defendant was self-employed with The Cavallaro Group, Inc., a real estate development/management/ownership group, as President, and has been so employed since 1992.
- (h) The Defendant's Aunt, Elizabeth Cavallaro (92 years of age), resides at _ Whispering Winds Court, Apopka, Florida in a home she owns and in which she has resided for approximately 20 years; the Defendant possesses a power of attorney for his Aunt and is her caretaker.
- (i) The Defendant's Son, Christian Cavallaro (48 years of age), resides at

Pasadena Beach, St. Petersburg, Florida in a home he owns and in which he has resided for about 18 months.

- (j) The Defendant's Nephew, Christopher Cavallaro (50 years of age), resides in Davenport, Florida in an apartment he rents and in which he has resided for approximately 1 year.
- (k) The Defendant's Sister, Cecilia Wheeler (54 years of age), resides in St. Augustine, Florida in a house she and her Husband own and in which she has resided for 6-7 years.
- (l) The Defendant has had no prior contact with the Criminal Justice System.
- (m) The Defendant has never previously fled a jurisdiction to avoid prosecution, nor has he failed to appear at any court proceedings.
- (n) There is no probability of danger that the Defendant's release poses to the community.
- (o) The Defendant is not already on release pending resolution of another criminal proceeding nor is he on Probation, Parole or other release pending completion of sentence.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided via e-file/fax/hand/U.S. Mail delivery to the Office of the State Attorney, on this 10th day of June, 2019.


6/10/19

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BAIL SCHEDULE – FLAGLER, PUTNAM, ST. JOHNS & VOLUSIA COUNTIES

OFFENSES FOR WHICH NO BAIL IS TO BE GRANTED AND NO RELEASE PERMITTED BEFORE FIRST APPEARANCE:

- Capital felony
- Life felony
- First degree felony which may be punishable by life imprisonment
- Escape – F.S. 944.40
- Domestic Violence – any offense defined in F.S. 741.28(2)
- Aggravated Stalking – F.S. 784.048(3)
- Burglary committed during declared state of emergency – F.S. 810.02
- Violation of domestic or repeat violence injunction when the alleged violation involves violence or attempt to commit violent act or stalking
- Any felony, if the person arrested is on pre-trial release (including bail, ROR, etc.), pre-sentence release, or probation/community control, and is arrested on probable cause
- RICO Act violation – F.S. 895.03
- Offenses not otherwise mentioned below.

OFFENSE

BAIL

Drug Trafficking

Criteria	amount
Min. mandatory 25 years	\$500,000
Min. mandatory 15 years	\$150,000
Min. mandatory 7 years	\$ 50,000
Min. mandatory 3 years	\$ 25,000

<u>1st degree Felony:</u>	Non-Violent	\$15,000
<u>2nd degree Felony:</u>	Non-Violent	\$ 5,000
<u>3rd degree Felony:</u>	Non-Violent	\$ 2,500
<u>1st degree Misdemeanor</u>	Non-Violent	NTA / \$500
<u>2nd degree Misdemeanor</u>		NTA / \$500

- Any offense not involving physical harm or actual threat of physical harm to another person is a “non-violent” offense. Any offense involving physical harm to another person, or having as one of its elements assault or threat of violence, or involving the use or threatened use of a deadly weapon, is a “violent” offense. Burglary of a dwelling is considered a “violent” offense.

OFFENSE

BAIL

DUI

Criteria	amount
1 st offense	\$1,000*
If prior DUI <u>conviction(s)</u> within 5 years, or , with bodily injury	\$2,500*

*Release must also comply with F.S. 316.193(9)

Leaving scene of accident

Criteria	amount
Misdemeanor	NTA / \$500
Felony (injuries)	\$2,500
Felony (death)	\$5,000

Reckless Driving

Criteria	amount
No accident	NTA / \$500
Accident	NTA / \$1,000

Driving with suspended/revoked license

Criteria	amount
Driving with suspended/revoked license	NTA / \$500
1 prior conviction	NTA / \$1,000
2 or more prior convictions	\$2,000

Willful failure to comply with LEO/ED

NTA / \$500

Other criminal traffic violations (Ch. 320 & 322, F.S.)

NTA / \$200

Municipal ordinance violations

As suggested by municipality **or** NTA / \$200

- This bail schedule pertains to release of alleged offenders **prior to First Appearance**, when a judge has not previously established conditions of release (for example, in an arrest warrant). The First Appearance judge may increase or decrease/eliminate the amount of bail and set other conditions of release, pursuant to Rule 3.131(a), Fla.R.Crim.P., and other applicable rules and statutes.
- Rules 3.125(b) and (c) provide that arresting officers and booking officers may issue **notices to appear** in certain circumstances where the arrest is for a misdemeanor of the first or second degree. Such notices to appear may be issued in accordance with the rule when "NTA" appears on this schedule.
- § 903.046(2)(d), F.S. provides that a defendant who **failed to appear** shall not be eligible for release on recognizance, and shall be subject to a monetary undertaking of \$2,000 or twice the original bond, whichever is greater. However, this does not apply if the defendant proves circumstances beyond his/her control resulted in the failure to appear.