

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BURGES McCOWAN, PLC
1421 East Thomas Road
Phoenix, Arizona 85014
(602) 492-8295
(602) 200-8173 fax
burges@burgesmccowan.com
Burges N. McCowan, Bar No. 021217

2016 JAN 15 PM 1:15
15

BURGES
McCOWAN
PLC

1421 East Thomas Road
Phoenix, AZ 85014
(602) 492-8295
Fax
(602) 200-8173

**IN THE SUPERIOR COURT IN AND OF THE
COUNTY OF COCONINO FOR THE STATE OF ARIZONA**

IN THE MATTER OF:

STATE OF ARIZONA,

v.

STEVEN EDWARDS JONES,

No. CR 2015-00862

**MOTION TO MODIFY
RELEASE CONDINTIONS**

(ORAL ARGUMENT REQUESTED)

The Defendant, Steven E. Jones, by and through undersigned Counsel, hereby submits the instant Motion. Pursuant to Rule 7.4(b) of the Arizona Rules of Criminal Procedure, respectfully requests this Court enter an Order releasing him on his own recognizance pending trial, releasing him to a third party or pretrial supervision, or reducing his bond. The following Memorandum of Points and Authorities support this Motion.

RESPECTFULLY SUBMITTED January 12, 2016.

Burges McCowan, PLC

B — M'C
Burges McCowan
Attorney for Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

On October 9, 2015 on the border of the NAU campus near Mountain View residence hall and the abutting parking lot, 18-year-old NAU freshman Steven Jones and two of his friends (Shay McConnell & Jacob Mike) were walking past the "Courtyard Apartments," located at 262 Franklin on their way to the parking lot across the street where Steven's car was parked. While standing in front of the Courtyard, approximately 12 individuals came out of the apartments and began yelling at Steven and his two friends (who also happened to be freshmen). The subjects who emerged from the apartments appeared intoxicated and surrounded Steven and his friends. The group approached Steven, Shay and Jacob very aggressively – calling them "faggots," stating "I am going to kill you, you pussy" and "getting right in their faces". While the three teenagers were being accosted, one of the men from the larger group, Austin Contreras, ran up and punched Steven's friend in the face. Another man then punched Steven in the face with a closed fist. As a result of the unprovoked attack, Steven's face was bloodied and his eyeglasses were knocked off his face.

Steven and his friends did not punch back. Instead the freshmen ran away as fast as they could. Steven ran towards his car in the nearby parking lot and was chased by several of the individuals from the Courtyard who were yelling "I'm going to kill you, you pussy faggot." As Steven was attempting to retreat, someone attempted to grab his shirt and he observed his two friends being grabbed by subjects from the Courtyard.

Steven reached his car and obtained his pistol from the glove box. Unsure of his exact surroundings because his glasses had been knocked off his face, Steven announced that he had a gun and yelled at the subjects to stop. Unbeknownst to Steven, the subjects had actually

1 discontinued their pursuit of him but two of them quickly started running back towards him after
2 he shouted commands at them. As Steven held his pistol in the "low ready" position and again
3 yelled for them to stop, alleged victims Colin Brough and Nicholas Piring stated that they were
4 going to kill Steven and charged towards him. From a distance of approximately 5 to 10 feet,
5 Steven fired his pistol at both subjects. Brough and Piring were each struck with two rounds.
6 Paramedics later pronounced Brough deceased at the scene. From the time Steven was first
7 punched on Franklin Street until the time of the first shots was only approximately 30 seconds
8 according to Sgt. Michael O'Hagan of the NAU PD.

9 Thereafter, Steven was tackled to the ground by a large group of other subjects who
10 punched him, kicked him and attempted to take his pistol. Again fearing for his life, Steven fired
11 multiple shots – striking alleged victims Nicholas Prato and Kyle Zientek. The group dispersed,
12 Steven placed the gun on the ground and immediately surrendered himself to NAU PD Officer
13 Park.

14 While left alone in the back of the police car, Officer Park's surveillance equipment
15 captured Steven repeatedly stating "why did they chase me?" and "why did they punch me?"
16 Officer Park noted that Steven had a split lip and bloody mouth. He transported Steven to
17 CCSO where further injuries were observed – including injuries to Steven's head, back, chest,
18 arms, knees and wrist. Police questioned Steven for several hours during which time he provided
19 much of the above-listed information and was thereafter booked into the CCSO Jail on charges
20 of murder and aggravated assault.

21 Piring, Prato and Zientek were all transported to Flagstaff Medical Center and survived
22 their injuries. While in the ED of Flagstaff Medical Center, Prato and Piring were interviewed by
23 FPD Detective Jacobellis who spent at least three hours at the hospital. Lab tests were conducted
on all three subjects very shortly after their arrival at Flagstaff Medical Center. All three subjects

1 had significant amounts of alcohol in their systems: Prato, Piring and Zientek's blood alcohol
2 concentrations were .092%, .208% and .181%, respectively. Prato and Zientek also tested
3 positive for cannabis. Mr. Brough's BAC was .285%. In addition, he had both cannabis and
4 benzodiazepines in his system. A sample of Mr. Jones' blood was also collected and subsequently
5 tested negative for either drugs or alcohol.

6 At his initial appearance, mere hours after this incident and while much of the
7 investigation was ongoing, his bond was set at two million dollars cash. The State claimed at the
8 initial appearance, that there was an altercation at the apartment and Steven went to his car,
9 retrieved his gun, and then "went back to the altercation" and began firing shots.

10 Mr. Jones is a lifelong resident of Arizona, whose parents live in Maricopa County. Mr.
11 Jones has no criminal history, and no record of failing to appear for court proceedings. It is
12 unclear from the record whether these facts were known at the time of the initial appearance.

13 **II. STATEMENT OF LAW**

14 A Defendant's right to release prior to trial is governed by the United States
15 Constitution, the Arizona Constitution, the Arizona Criminal Code, Rule 7 of the Arizona
16 Rules of Criminal Procedure [ARCP] and Arizona Revised Statutes [A.R.S.] § 13-3967.
17 Pending trial, a defendant should be released on his own recognizance, or with conditions if
18 necessary to provide a court with assurances that the defendant will attend proceedings.
19 ARCP Rule 7.2. A subsequent review is warranted whenever there are material facts not
20 previously considered by the court that set the original release conditions. ARCP Rule 7.4(b)

21 Bail, and the amount of it required, is only necessary to assure the defendant will
22 attend court proceedings. Any bail set higher than necessary to secure the defendant's
23 appearance is excessive. Gusick v. Boies, 233 P.2d 446, 72 Ariz. 233 (Ariz., 1951)

Arizona statute enumerates the factors for a court to consider in determining the least onerous release conditions:

- 1) The views of the victim; 2) the nature and circumstances of the offense(s) charged; 3) the weight of evidence against the accused; 4) the accused's family ties, employment, financial resources, character and mental condition; 5) the results of any drug test submitted to the court; 6) whether the accused is using any illegal substance; 7) the length of residence in the community; 8) the accused's record of arrests and convictions; 9) the accused's record of appearance at court proceedings; 10) whether the accused has entered or remained in the United States illegally; 11) whether the accused's residence is in this state, in another state or outside the United States.

A.R.S. § 13-3967(B).

III. ARGUMENT

There are many facts that were unknown to the court when Steven's bond was initially set. For instance, the alcohol levels of the alleged victims vis-à-vis Steven. Many witnesses were still in the process of being interviewed during the time of the initial appearance. Indeed, Mr. Contreras, who was part of the crowd that attacked Steven and his friends, and later hired an attorney and admitted to Mr. Barker that he threw the first punch in the "altercation," was not yet interviewed at the time of the initial appearance.

At the initial appearance, the State made the claim that Steven "came back to the altercation" and had time to reflect upon his actions before opening fire at the crowd. The distinct impression was that Steven left the apartments, went to his car to retrieve his gun, and then went back to the apartments with the intent to kill. While the State clearly knew by the time of the initial appearance that the altercation followed Steven into the parking lot, that fact was not disclosed to the court during the initial appearance.

Steven is a lifelong resident of Arizona. He is an 18-year-old college student who was on scholarship and has no criminal history. While the charges he faces are serious, the numerous facts that have surfaced since the initial appearance demonstrate that the bond is excessive and more designed to punish a young man who is innocent under the law than to simply ensure his appearance at court proceedings.

Steven has neither the means nor the desire to flee this jurisdiction. He is eager to clear his name. The State has accused Steven of being a murderer and he has no interest in adding fugitive to the numerous misperceptions the public has of him. Steven wishes to reside with his parents while he and his attorneys prepare his defense. Given that his attorneys are also located in Maricopa County where his parents reside, Steven's continued detention in Coconino County presents an unnecessary challenge to his defense efforts.

IV. CONCLUSION

Based on the aforementioned, the Defendant requests this Court release him on his own recognizance, release him on a third party basis, release him to pre-trial services, or to reduce the bond in this matter to a reasonable amount.

Respectfully submitted January 12, 2016.

BURGES McCOWAN, PLC

By B. N. McCowan
Burgess N. McCowan

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

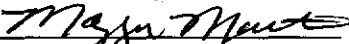
Original of the foregoing filed
January 12, 2016.

Clerk of the Court
Coconino County Superior Court
200 N. San Francisco Street
Flagstaff, AZ 86001

Copies of the foregoing e-mailed/mailed
January 12, 2016.

Ammon Barker
Deputy County Attorney
Coconino County Attorney's Office
110 E. Cherry Ave
Flagstaff, AZ 86001

Honorable Dan Slayton
200 N. San Francisco Street
Flagstaff, AZ 86001

By 
Maggie Martell