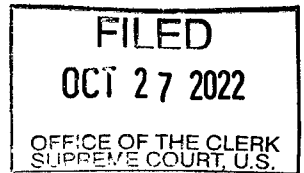


22-6692
No.

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

Jerez coleman — PETITIONER
(Your Name)

vs.

The State of Maryland — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Maryland Supreme court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

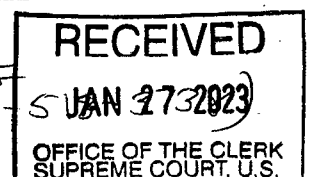
PETITION FOR WRIT OF CERTIORARI

Jerez coleman
(Your Name)

5262 Woods road
(Address)

Cambridge, MD 21613
(City, State, Zip Code)

240-495-5703 (Mom #) (252-5) ^{my #}
(Phone Number)



QUESTION(S) PRESENTED

- 1.) Whether a bail practice that results in the incarceration of indigent individuals without meaningful consideration of their ability to pay and alternative methods of assuring appearance at trial violates the fourteenth Amendment?
- 2.) The fourteenth Amendment's due process and equal protection clauses have long prohibited imprisoning a person because of the person's inability to make a monetary payment. Respondent (Easton, MD) violates my rights by placing and keeping me in jail when I can't afford to pay the amount of cash set by the generic fixed bail schedule used by Easton, MD (known as Talbot County, MD). These are the following questions I will address.

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- ✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Patrick Thomas, Attorney For Talbot county, MD
Brian Frosh, Attorney General of MD,
200 Saint Paul Place, Baltimore, MD 21202-2021
- 11 N. Washington Street Stephen H. Kehoe
Carthouse South Wing 11 N. Washington Street
Easton, MD 21601, Easton, MD 21601

RELATED CASES

~~Stack v. Boyle, 342 U.S. 1, 72 S. Ct. 1, 96 L. Ed. 3~~
Stack v. Boyle, 342 U.S. 1, 72 S. Ct. 1, 96 L. Ed. 3

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Pugh v. Rainwater, 512 F.2d 1053, 1057 (5th Cir. 1978) (en banc)
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M.L.B. v. S.L.J., 519 U.S. 102, 127 (1996), Hudson v. Parker, 156 U.S. 277, 285 (1895), Barker v. Wingo, 407 U.S. 514, 533 (1972) - ~~see notes~~

STATUTES AND RULES

Title 18 3142(C)(2)

Title 18 3142(G)

~~the~~ Bail Reform Act of 1966, Pub. L. No. 89-465, 80 Stat. 214.

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

- ☐ reported at 7/11/22 - Denied - 10/4/22; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the MD Supreme court court appears at Appendix C to the petition and is

- ☐ reported at Filed 7/11/22 - Denied - 10/4/22; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 10/4/22.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: 6/30/22, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including 7/11/22 (date) on 10/4/22 (date) in Application No. 108 A 2022.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A bail practice violates the fourteenth Amendment if, without consideration of ability to pay and alternative methods of assuring appearance at trial, it results in the pretrial detention of indigent defendants. The fourteenth Amendment prohibits incarcerating individuals without meaningful consideration of indigence and alternative methods of achieving a legitimate government interest and bail systems like the one in Eastern Maryland that keep indigent defendants in jail solely because they cannot pay bail result in the unnecessary pretrial detention of indigent people and impede the fair administration of justice.

STATEMENT OF THE CASE

Whether a bail practice like the one used in Maryland that resulted in the incarceration of an indigent individual without meaningful considerations of ability to pay and alternative methods of assuring appearance at trial violates the Fourteenth Amendment. ~~an~~ overview of bail in the United States "In our society, Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." United States v. Salerno, 481 U.S. 739, 755, (1987). Courts have recognized that it is within this limited exception that conditions can be imposed, or in the rare circumstances (See Attached), - on Back), (pages 1-23)

1.)

Statement of case for Emergency petition + writ of certiorari to the U.S. Supreme Court and Application for Interim relief.

Jerez Coleman

10/3/22

Statement of the case

- Statement of the issue: Whether a bail practice like the one in Maryland that resulted in the incarceration of an indigent individual without meaningful considerations of ability to pay and alternative methods of assuring appearance at trial violates the Fourteenth Amendment?

• Statement of the case

1.) Overview of bail in the United States

"In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception". United States v. Salerno, 481 U.S. 739, 755, (1987). Courts have recognized that it is within this limited exception that conditions can be imposed, or in the rare circumstances, release can be denied, to achieve legitimate goals like preventing the flight of defendants before trial or protecting the public from future danger.

See id. at 754-755. Future appearance in court and public safety often can be assured through the imposition of nonmonetary conditions, such as supervised release or reasonable restrictions on activities and movements. See, ABA Standards for Criminal Justice: Pretrial release 10-1.4, 10-5.2 (3d ed. 2007) (Available at http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_10-1.1). Financial conditions (often referred to simply as bail), this is because "a primary function of bail

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SUPREME COURT, U.S.

2.)

Safeguard the courts' role in adjudicating the guilt or innocence of defendants". Salerno, 481 U.S. at 753, see also, Pugh v. Rainwater, 572 F.2d 1053, 1057 (5th Cir. 1978) (en banc) (recognizing bail's limited function of assuring the presence of the defendant). The bail reform act abolished the use of bail conditions that discriminate against indigent arrestees in the federal system. The act's purpose was to revise federal bail practices to assure that all persons, regardless of their financial status, shall not needlessly be detained pending their appearance when detention serves neither the ends of justice nor the public interest". Bail Reform Act of 1966, clause 2, see also Allen v. United States, 386 F.2d 634, 637 (D.C. Cir. 1967) (Bazelon, J. dissenting) (it plainly appears from the language and history of the bail reform act that its central purpose was to prevent pretrial detention because of indigency). In 1984, the act was amended to make clear that a "judicial officer may not impose a financial condition that results in the pretrial detention of the person". 18 U.S.C. 3142(c)(2), see H.R. REP. NO. 98-1121, 98th Cong., 2d Sess. 12 (1984). ~~4500~~

Procedural History: I am a 27 year old, young man of color, I have an academic scholarship at Harvard University. I was charged with theft of service \$25,000 - \$100,000. The case has been going on since 2018. The case was dismissed, then they recharged me. My mom filed a complaint with DOJ (The investigation is pending). The charge is non-violent. 8/18/20 and 9/21/20, we had court in Talbot County, during these times I had court it

(Exhibit 3)

nally, which is currently inactive and closed (I was in jail and handling litigation for the case), and the Public Defender Kisha Petticolas didn't respond to phone calls or emails from my family and remains mute, since 2018 and not telling the court or current prosecutor Joseph Coale that I was locked up and I mentioned to the circuit court about my case and how I was locked up. The other concern is on March 9th, 2022, Judge Stephen Kehoe, who set my bail at \$50,000 100% corporate or cash due to my address change as I recently bought an apartment in Maryland and I am currently employed at Amazon Inc in D.C as a digital media coordinator, in which I have missed 7 months of work and have been in pretrial detention for 198 days as of 9/21/22, which is passed the speedy trial timeline. I have not even seen evidence pursuant to rule 16 or given adequate counsel. In circuit court I filed for numerous bail reduction motions and ineffective assistance of counsel motion. When Judge Kehoe gave me a \$50,000 dollar bail in which the state of Maryland has supported violated my 8th amendment right against excessive bail, also the court didn't take into account my indigency or alternative methods of assuring appearance. I filed appeals, sent stuff to the supreme court, my family contacted several federal agencies to open an investigation on the county officials in Talbot County, Maryland who are handling the case. The court of appeals, in Maryland employs the judges brother Christopher Kehoe and when my appeal was denied I had no choice to file this petition as my rights are being violated. The summary of my argument: If this court reaches

4.)

the issue, it should affirm my holding that a bail scheme that mandates payment of fixed amounts to obtain pretrial release, without meaningful consideration of an individual's indigence and alternatives that would serve the county's interest, violates the fourteenth amendment. Also the court should affirm that my bail is excessive in violation of my 8th Amendment right. In a long line of cases beginning with *Griffin v. Illinois*, 351 U.S. 12 (1956), the Supreme Court has held that denying equal access to justice - including and especially through incarceration - without consideration of ability to pay and possible alternatives to achieve a legitimate government interest, violates the fourteenth Amendment. In these cases, the court has recognized that the proper analysis reflects both equal protection and due process principles, and has rejected use of the traditional equal protection inquiry. The appropriate inquiry focuses instead on "the nature of the individual interest affected, the extent to which it is affected, the rationality of the connection between legislative means and purpose, and the existence of alternative means for effectuating the purpose". *Bearden v. Georgia*, 461 U.S. 660, 666-667 (1983) (citation omitted; brackets in original). The Supreme Court's holdings and analysis apply with special force in the bail context, where deprivations of liberty are at issue and defendants are presumed innocent. Under *Bearden* and other cases in *Griffin's* progeny, a bail scheme that imposes financial conditions, without individualized consideration of ability to pay and whether such conditions are necessary to assure appearance at trial, violates the fourteenth Amendment. Thus, as the former fifth circuit

5.)

acknowledged, while the use of fixed bail schedules may provide a convenient way to administer pretrial release, incarcerating those who cannot afford to pay the bail amounts, without meaningful consideration of alternatives, infringe on equal protection and due process requirements. see *Rugh v. Rainwater*, 572 F.2d 1053, 1057 (5th Cir. 1978) (en banc). In addition to violating the fourteenth Amendment, such bail systems result in the unnecessary incarceration of people and impede the fair administration of justice for indigent arrestees. Thus, they are not only unconstitutional, but they also constitute bad public policy.

Argument.

A Bail Practice violates the fourteenth Amendment if, without consideration of ability to pay and alternative methods of assuring appearance at trial, it results in the pretrial detention of indigent defendants.

A.) The fourteenth Amendment prohibits incarcerating individuals without meaningful consideration of indigence and alternative methods of achieving a legitimate government interest. The Supreme Court has long held that "there can be no equal justice where the kind of trial a man gets depends on the amount of money he has". *Griffin v. Illinois*, 351 U.S. 12, 19 (1956) (plurality opinion); accord *Smith v. Bennett*, 365 U.S. 708, 710 (1961). As explained more fully below, in a long line of cases beginning with *Griffin*, the Court has repeatedly reaffirmed that denying access to equal justice, without meaningful consideration of indigence and alternative methods of achieving

6.)

a legitimate government interest, violates the fourteenth Amendment. Although a jurisdiction has discretion to determine which rights and penalties beyond what the constitution minimally requires are appropriate to achieve its legitimate interests, the fourteenth Amendment prohibits a jurisdiction from categorically imposing different criminal consequences — including and especially incarceration — on poor people without accounting for their indigence.

In *Griffin*, the court first considered whether a state "may consistent with the due process and equal protection clauses of the fourteenth Amendment, deny adequate appellate review of a criminal conviction to the poor while granting such review to all others". 351 U.S. at 13. The court held that once a state decides to grant appellate rights, it may not "do so in a way that discriminates against some convicted defendant on account of their poverty". *Id.* at 18. The court therefore found it unconstitutional to deny indigent criminal defendants appellate review by effectively requiring them to furnish appellate courts with a trial transcript, which cost money, before they could appeal their convictions. See *id.* at 18-19. In holding that "destitute defendants must be afforded as adequate appellate review as defendants who have enough money to buy transcripts", *id.* at 14, the court declined to hold that the state "must purchase a stenographer's transcript in every case where a defendant cannot buy it", *id.* at 20. Instead, it held that the state "may find other means of affording adequate and effective appellate review to indigent

7.)

defendants". Ibid. In a line of cases building on Griffin, the supreme court has held that incarcerating individuals solely because of their inability to pay a fine or fee, without regard for indigence and a meaningful consideration of alternative methods of achieving the government's interests, effectively denies equal protection to one class of people within the criminal justice system while also offending due process principles. In *Williams v. Illinois*, 399 U.S. 235, 244 (1970), for example, the court struck down a practice of incarcerating an indigent individual beyond the statutory maximum term because he could not pay the fine and court costs to which he had been sentenced. The court held that "once the state has defined the outer limits of incarceration necessary to satisfy its penological interests and policies, it may not then subject a certain class of convicted defendants to a period of imprisonment beyond the statutory maximum solely by reason of their indigency". Id. at 241-242.

The court made clear, however, that "the state is not powerless to enforce judgments against those financially unable to pay a fine". Id. at 244. On the contrary, nothing in the courts holding "limits the power of the sentencing judge to impose alternative sanctions" under state law". Id. at 245.

Similarly, in *Tate v. Short*, 401 U.S. 395, 398 (1971), the court held that incarcerating an indigent individual convicted of fines-only offenses to satisfy his outstanding fines constituted unconstitutional discrimination because it "subjected him to imprisonment solely because of his

8.)

indigency". *Id.* at 397-398. The court explained that the scheme in *Tate* suffered from the same constitutional defect as that in *Williams*, and again emphasized that there "other alternatives to which the State may constitutionally resort to serve its concededly valid interest in enforcing payment of fines". *Id.* at 399. (See *Barnett v. Hopper*, 548 F.2d 550, 554 (5th Cir. 1977) (relying on *Williams* and *Tate* to hold that "to imprison an indigent when in the same circumstances an individual of financial means would remain free constitute a denial of equal Protection of the laws"), vacated as moot, 439 U.S. 1041 (1978). And in *Bearden v. Georgia*, 441 U.S. 660 (1983), the court held that the fourteenth Amendment prohibits a state from revoking an ^{indigent} ~~defendant's~~ defendant's Probation for failure to pay a fine and restitution "without determining that the defendant had not made sufficient bona fide efforts to pay & that adequate alternative forms of punishment did not exist". *Id.* at 661-662. Such treatment of indigent defendants would amount to "little more than punishing a person for his poverty". *Id.* at 662. The *Bearden* court further explained that, because "due Process and equal Protection principles converge in the courts analysis in these cases," 441 U.S. at 665, the traditional equal Protection framework that usually requires analysis under a particular level of scrutiny does not apply. Because "indigency in this context is a relative term rather than a classification, fitting the paradigm of this case into an equal Protection framework is a

9.)

task too Procrustean to be rationally accomplished".
Id. at 666 n.3 (internal quotation marks omitted). "whether
analyzed in terms of equal protection or due process, the
issue cannot be resolved by resort to easy slogans or
pigeonhole analysis". Id. at 666. Instead, the relevant
analysis "requires a careful inquiry into such factors as
the nature of the individual interest affected, the extent
to which it is affected; the rationality of the connection
between legislative means and purpose, and the existence
of alternative means for effectuating the purpose". Id. at
666-667 (citation and internal quotation marks omitted;
brackets in original). Although *Bearden* and other cases
in *Griffin's* progeny have arisen in the sentencing and
post-conviction contexts, their holdings apply with equal,
if not greater, force in the bail context. Indeed, defendants
who have not been found guilty have an especially "
strong interest in liberty". *United States v. Salerno*,
481 U.S. 739, 750, 755 (1987). Because of that liberty
interest, pretrial release should be the norm, and pretrial
detention "the carefully limited exception". Ibid. To be
sure, in certain circumstances, such as when ~~the~~^a court finds
that a defendant poses a threat to others or presents a
flight risk; this fundamentally important right may be circum-
scribed on a case-by-case basis. See, e.g., id. at 750-751,
754-755. If a court finds that no other conditions may
reasonably assure an individual's appearance at ^{trial} ~~trial~~,
financial conditions may be constitutionally imposed—but "bail
must be set by a court at a sum designed to ensure that

10.)

goal, and no more". *Id.* at 754 (emphasis added).

Although the imposition of bail in such circumstances may result ~~in~~ⁱⁿ a person's incarceration, the deprivation of liberty in such circumstances is not based solely on inability to pay. But fixed bail schedules that allow for pretrial release of only those who can pay, without accounting for ability to pay and alternative methods of assuring future appearance, do not provide for such individualized determinations, and therefore unlawfully discriminate based on indigence. Under such bail schemes, arrestees who can afford to pay the fixed bail amount are promptly released whenever they are able to access sufficient funds for payment, even if they are likely to miss their assigned court date or pose a danger to others. Conversely, the use of such schedules effectively denies pretrial release to those who cannot afford to pay the fixed bail amount, even if they pose no flight risk, and even if alternative methods of assuring appearance (such as an unsecured bond or supervised release) could be imposed. Such individuals are unnecessarily kept in jail until their court appearance often for minor offenses, such as a traffic or ordinance violation, or non-violent offenses, including violations that are not punishable by incarceration. As the former Fifth Circuit recognized in an en banc decision, while "utilization of a master bond schedule provides speedy and convenient release for those who have no difficulty in meeting its requirements the "incarceration of those who cannot, without meaningful consideration of other possible alternatives - infringes on

11.)

both due process and equal protection requirements." *Pugh v. Rainwater*, 572 F.2d 1053, 1057 (5th Cir. 1978) (en banc) (decisions of the former fifth circuit rendered before October 1, 1981, serve as binding precedent of the eleventh circuit. See *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc). Although the court in *Pugh* found moot plaintiffs' claim challenging the use of monetary bail to incarcerate defendants pretrial without meaningful consideration of alternatives, it acknowledged "that imprisonment solely because of indigent status is invidious discrimination and not constitutionally permissible". *Id.* at 1056 (citing *Williams*, *supra*; *Tate*, *supra*); see also *Varden*, *supra*, at 2 (concluding that "the fourteenth Amendment prohibits punishing a person for his poverty, and this includes deprivations of liberty based on the inability to pay fixed-sum bail amounts" - a principle that "applies with special force" to pretrial defendants (internal citation and quotation marks omitted)). In fact, where fixed bail schedules are used without meaningful consideration of alternatives that account for inability to pay, indigent arrestees seeking bail are faced with precisely the same type of "illusory choice" that the Supreme Court has recognized "works an invidious discrimination". *Williams*, 399 U.S. at 242. Although fixed bail schedules appear to be neutral on their face, the Supreme Court has explained that policies that impose sanctions on only indigent individuals are not neutral in their operation. The Supreme Court has rejected argument with respect to policies (like the one in Talbot County, MD and the State of Maryland) that implicate due process concerns and discriminate against

12.)

the indigent in the sanctions imposed, explaining that, because such policies "expose only indigents" to an additional sanction, they are "not merely disproportionate in impact. Rather, they are wholly contingent on one's ability to pay, and thus visit different consequences on two categories of persons," they apply to all indigents and do not reach anyone outside that class". *M.L.B. v. S.L.J.*, 519 U.S. 102, 127 (1996) (internal citation omitted, second brackets in original), see also *Bearden*, 461 U.S. at 664 (applying "Griffin's Principle of 'equal justice'" *Post-Washington v. Davis* to prohibit revocations of probation without inquiring into ability to pay and consideration of alternatives), *Williams*, 399 U.S. at 242 ("Here the Illinois Statutes as applied to Williams works an invidious discrimination solely because he is unable to pay the fine). In sum, under *Bearden* and other cases in Griffin's progeny, a jurisdiction may not use a bail system that incarcerates indigent individuals without meaningful consideration of their indigence and alternative methods of assuring their appearance at trial. Talbot County, MD circuit court did the same thing.

B.) Bail systems that keep indigent defendants in jail solely because they cannot pay bail result in unnecessary pretrial detention and impede the fair administration of justice.

Bail practices that do not account for indigence result in the unnecessary incarceration of numerous individuals who are presumed innocent. Of the more than 730,000 individuals incarcerated in local jails nationwide in 2011, for example, about 60% were pretrial detainees (A rate unchanged

13)

Since 2005), and most of them were accused of nonviolent offenses (like mine in Talbot county circuit court). (see, Richard Williams, Bail or Jail, State Legislatures (May 2012), available at <http://www.ncsl.org/research/civil-and-criminal-justice/bail-or-jail.aspx>, see also Todd D. Minton and Zhen Zeng, United States Department of Justice, Bureau of Justice Statistics, Jail inmates at midyear 2014, NCJ 248629, at 1, 3 (2015), available at <http://www.bjs.gov/content/pub/pdf/jim14.pdf>.) Unnecessary pretrial detention significantly burdens the limited resources of taxpayers and state and local governments. It also creates additional problems as jail become overcrowded. The repercussions of unnecessary pretrial detention that disproportionately affect indigent individuals can reverberate in other parts of the criminal justice process and impede the fair administration of justice. The "traditional right to freedom before conviction permits the unhindered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction". Pugh, 572 F.2d at 1056-1057 (en banc) (citing Hudson v. Parker, 156 U.S. 277, 285 (1895)). But incarceration could hinder a defendant's ability to gather evidence, contact witnesses, or otherwise prepare his defense". Barker v. Wingo, 407 U.S. 514, 533 (1972). Excessive pretrial detention could also induce the innocent to plead guilty for a speedier release or result in a detention period that exceeds the expected sentence (see, e.g., Andrew D. Leipold, how the pretrial process contributes to wrongful convictions, 42 Am. Crim. L. Rev.

14.)

1123, 1154 (2005), Mary T. Phillips, New York City Criminal Justice Agency, Inc, Bail, Detention, and felony case outcomes, Research Brief No. 18, at 7 (2008), available at http://www.nycja.org/1wdcms/doc-view.php?module=reports&module_id=597&doc_name=doc, Stephanos bibas, Plea Bargaining outside the shadow of trial, 117 Harv. L. Rev. 2463, 2492 (2004). And because "most jails offer little or no recreational or rehabilitative programs", pretrial detention is not likely to reduce recidivism. *Ibid.* Pretrial incarceration also "often means loss of a job," it disrupts family life, and it enforces idleness". Barker, 407 U.S. at 532, see also ABA Standards for Criminal Justice: Pretrial release 10-1.1 ("Deprivation of liberty pending trial is harsh and oppressive, subjects defendants to economic and psychological hardship, interferes with their ability to defend themselves, and, in many instances, deprives their families of support"). (see, Available at http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards-pretrialrelease_bk.html#10-1.1). This impact may be exacerbated for indigent individuals who, as a consequence of their poverty, are ~~exactly~~ already in vulnerable situations. (see, Open Society Justice Initiative, the Socioeconomic Impact of Pretrial Detention 27-32 (2001) (examining the costs to pretrial detainees and their families as measured by income, employment, education, incarceration-related expenses, and long-term effects), available at <http://www.pretrial.org/download/research/OSI%20Socioeconomic%20Impact%20Pretrial%20Detention%202011.pdf>.) In short, bail practices like the

one used in Talbot County, MD fail to account for indigence, which is unconstitutional; but also conflict with sound public policy considerations. If this court reaches the issue presented herein, the court should affirm that a bail scheme (like the one in Talbot County, MD and the state of Maryland) violates the Fourteenth Amendment if, without a court's meaningful consideration of ability to pay and alternative methods of assuring appearance at trial, it results in the detention of indigent defendants pretrial. Due to Talbot County Circuit Court not taking into account of my ability to pay and alternative methods of assuring appearance at trial, it resulted in pretrial detention thus violating my eighth and fourteenth Amendment rights of the United States Constitution.

c) The court should affirm that respondents' practices harm me. (When judges announce at bail review hearings that they are "authorizing pretrial release", arrested people and their families regularly cheer. They then become devastated once they learn from defense counsel that an authorization of pretrial release does not, in fact, result in pretrial release - at least not anytime soon.

• Pretrial incarceration has harmed me beyond loss of liberty. I have endured degrading and life-threatening conditions in jail. For instance, people who are subjected to pretrial incarceration experience an worsening of existing - or a higher likelihood of developing - mental illness, a high

16.)

likelihood of assault, including sexual assault, especially in the first few days of incarceration, exposure to communicable diseases (I contracted covid 19 at Talbot county detention center), inability to exercise, deprivation of sunlight and fresh air, and forcible separation from children and family. Thus, every day of pretrial detention inflicts additional, irreparable harm against me, when no court has determined that pretrial detention is necessary, that harm is especially unjustifiable. Without intervention from this court, I will continue to suffer the serious and irreparable harm of being jailed. Imprisoning a human being in a jail cell in violation of his constitutional rights is undoubtedly an irreparable harm to his mind and his body. "Freedom from imprisonment - from government custody, detention, or other forms of physical restraint - lies at the heart of the liberty that ~~the due process~~ ^{the due process} clause protects". (Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Foucha v. Louisiana, 504 U.S. 71, 80 (1992)) ("Freedom from bodily restraint has always been at the core of the liberty protected by the due process clause from arbitrary governmental action. Even one additional night in jail is a harm to a person that can't be later undone. See, e.g., United States v. Bogie, 855 F.2d 707, 710-711 (11th Cir. 1988) (holding that the unnecessary deprivation of liberty clearly constitutes irreparable harm); Wanatee v. Ault, 120 F. Supp. 2d 784, 789 (N.D. Iowa 2000) ("unconstitutional incarceration generally constitutes irreparable harm to the person in such custody"); SEC v. Bankers Alliance Corp, 1995 WL 317586, 3 (D.D.C. 1995) (as a question of irreparable

17.)

harm in the absence of a stay, clearly Mr. Lee will be harmed by being incarcerated"), *Lake v. Speziale*, 580 F. Supp. 1318, 1335 (D. Conn. 1984) (Granting Preliminary injunction requiring cart to inform child support debtors of their right to counsel because unlawful incarceration would be irreparable harm), *Cobb v. Green*, 574 F. Supp. 256, 262 (W.D. Mich. 1983) ("there is no adequate remedy at law for a deprivation of one's physical liberty. Thus the cart finds the harm asserted by Plaintiff is substantial and irreparable). In my case, further time in Talbot county Detention center or any jail has a disastrous consequence because I am the oldest of six siblings, along with my man who ~~also~~ depend on due to my cancer. Moreover, even a few days in jail can have devastating consequences in a person's life, such as the loss of a job or the inability to arrange safe alternative care for minor children. It also exposes arrestees to the risk of unsanitary conditions, infection, and other medical and safety emergencies prevalent in ^{Maryland} ~~Talbot County~~ jails. Forcing people to risk all of these additional harms because they can't raise several hundred dollars to avoid them would only further contribute to the unnecessary and irreparable harm visited on me in this case. ~~the~~ The fact that respondents have detained me in violation of my constitutional and legal rights. I am injured by the same unconstitutional policies and practices maintained by respondents. Constitutional violation 1: Fourteenth Amendment right to substantive due process. I have a fundamental right to

Pretrial liberty that may be infringed only where the government establishes by clear and convincing evidence that detention is necessary to protect the government's interest in ensuring the safety of the community and the appearance of the accused in court, and that no less restrictive alternatives will suffice to protect these interests.

2.) Respondents maintain policies and practices that violate my fundamental right to Pretrial liberty by subjecting me to pretrial detention without the substantive findings required by the constitution.

Constitutional violation 2: Fourteenth Amendment Right to Procedural Due Process: Procedural due Process requires ~~substantive~~ Procedures sufficient to protect my substantive right to Pretrial liberty. See Mathews v. Eldridge, 424 U.S. 319 (1976). These procedures include, but are not limited to: a timely individualized hearing, notice of the issues to be determined, representation by counsel, the opportunity to present and confront evidence and make arguments, findings on the record explaining the basis for any condition of release imposed and the evidence relied on, and, ~~and~~ ^{if} such conditions will result in pretrial detention, a finding by clear and convincing evidence that pretrial incarceration is necessary because no alternative conditions or combination of conditions would reasonably ensure the safety of the community and the person's future court appearance.

respondents maintain policies and practices that violate my right to Procedural due Process by subjecting me

19.

to pretrial detention without constitutionally sufficient Procedures.

MD Rule 4-216.1 and 8th Amendment right was violated. on October 11th, 2016, Brian Frosh, the Attorney General of Maryland, wrote an advice letter (which is in the exhibit's to Judge Alan Wilner, chair of the court of appeals standing committee on rules of practice and procedure to consider amendments to the Maryland rules, the letter contended that it was unconstitutional for judicial officers to "impose a financial condition set solely to detain the defendant," particularly if "Pretrial detention is not justified to meet the state's regulatory goals". The Talbot county circuit court violated my 8th Amendment right against excessive bail, when Judge Stephen Kehoe, set my bail at \$50,000 100% cash or corporate, myself or family don't have real estate or that amount of cash that can be pledged. on March 11th, 2022, I clearly stated I or my family can cover a \$500 dollar bail with reasonable conditions, but without taking into account my indigency or alternatives, the court before even considering financial conditions, the court had to find that they were the only conditions that could ensure my appearance for any future court dates, and then rules 4-216 and 4-216.1(c)(2) required the court to determine my ability to pay and set it at a level I could achieve on record, Judge Kehoe stated "I am being biased against because I was charged with a crime". The court set bail at a level I couldn't meet, this matter is non

Violent, and financial conditions should be imposed

only as a last resort, and only as conditions of release,

i.e., at a level that the individual defendant has a

reasonable prospect of satisfying. Even when financial

conditions are used appropriately - circumstances that

should be a rare exception under the new rules, not the

norm - those conditions must reflect the defendant's individual

financial circumstances and must be set at a level

that will permit him an opportunity to achieve his release.

Financial conditions designed to thwart or eliminate the

possibility of release violate "Brian Frash's letter of the

applicable rules and the principles underlying them. U.S.

const. Amend. VIII. The Supreme Court has held that the

Fifth Amendment's proscription of excessive bail applies

to the states through the Fourteenth Amendment. Schilb v.

Kuebel, 404 U.S. 357, 385 (1971). Maryland's wealth-based

pretrial detention scheme violates the Fourteenth Amendment.

Talbot County, MD and (The State of Maryland) Pretrial

bail scheme disproportionately and irrationally affects the

poor. The Supreme Court has long held that such practices

violate the Fourteenth Amendment of the U.S. Constitution.

Specifically, the Court has found that in criminal proceedings

a state can no more discriminate on account of poverty

than on account of religion, race, or color. Such a practice

likely also violates Maryland's constitution. Maryland

Declaration of Rights Article 24 is interpreted coextensively

with the Fourteenth Amendment of the U.S. Constitution.

See Evans v. State, 396 Md. 256, 327 (2006) ("Finally,

Evans contends in this regard that, even if his complaint does not pass muster under the Eighth and Fourteenth Amendments to the Federal Constitution, it does under Articles 16, 24, and 25 of the Maryland Declaration of Rights. We have consistently construed those provisions as being *pari materia* with their federal counterparts and are not convinced that they should be read more broadly (or narrowly) in this context"; see also *Aursler v. Tawes*, 178 Md. 471, 483 (1940) ("Article 24 of the Maryland Declaration of Rights is in harmony with the 5th and 14th amendments to the Federal Constitution, and the term 'due process of law' as used in said amendments has been construed to be ~~as~~ synonymous with the expression 'law of the land' as used in said article). Talbot County, Md. and the State of Maryland, current Pretrial is ripe for constitutional challenge under the Fourteenth Amendment. Such attack could garner the support of the Department of Justice "Civil Rights Division". Litigation of that nature is all more probable since Maryland and Talbot County's practices routinely violate the eighth amendment right against excessive bail. In addition to the Fourteenth Amendment's Equal Protection and Due Process clauses, Talbot County and Maryland's bail practice contravene the eighth Amendment's proscription of excessive bail. Maryland courts have held that Maryland Declaration of Rights Article 24 is analogous to ~~the~~ the eighth amendment to the U.S. Constitution. see, e.g. *Mills v. State*, No. 2385 Sept. term 2014, 2016 WL 2851741 at 17 (Md. App. May 19, 2016); *Walker v. State*, 53 Md. App. 171, 181

(1982) (explaining that article 25 is the virtually verbatim Maryland counterpart to the Eighth Amendment's Excessive bail clause). In ~~close~~ closing, this court should affirm my holding that due to talbot cnty circuit court not taking into account my ability to pay and alternative methods of assuring appearance at trial, it resulted in my pretrial detention thus violating my fourteenth amendment right to the U.S. constitution. The court should also affirm that setting my bail in an amount not affordable to me, thus effectively denying release, violates due Process, ~~since~~ ^{Talbot} ~~since~~ cnty circuit court ordered me released, yet set bail out of reach financially in an amount of 50,000, bail is excessive under the eighth amendment. Due to me contracting covid-19 on 8/10/22 at Talbot cnty detention center, I will suffer even more harm by being in this facility, like I stated in ~~my opening~~ ^{my opening}, precautions taken were insufficient. My continued confinement at Talbot cnty ~~detention~~ ^{detention} center exposes me to a substantial risk of contracting covid-19, again, which due to my underlying health conditions exposes me to a substantial risk of irreparable harm to my health and life. My continued confinement violates my 5th Amendment right to the U.S. constitution. I am formally requesting that my ~~requested~~ emergency relief be granted and the court order me immediately released with reasonable conditions.

- A.) A court order to be released on my own recognizance
- B.) A court order to be released on an unsecured bond with reasonable conditions

Remanding with instructions to circuit court to conduct a constitutional
compliant bail hearing
C.) Bail in the amount of \$5,000 (\$500 dollars) ← or
D.) Any other relief the court deems reasonable.

Respectfully submitted;

Jerez Coleman

I declare under the Penalty of Perjury, Pursant to
28 U.S.C. 174A, the foregoing is true and correct.

REASONS FOR GRANTING THE PETITION

I am 27 and Talbot county, MD (Known as Easton, MD) automatically set my bail at \$50,000 10% per the counties fixed bail schedule, on 3/11/22, the court set ~~10000~~ bail for this non-violent offense and on 3/24/22 the state court denied me, then my first appeal, case no: CSA-REG-0367-2022 was admin. closed on 5/11/22, then my second appeal, case no: CSA-ALA-0450-2022 was denied on 6/30/22, I then sent it to the MD Supreme court on 7/11/22 and it was denied on 10/4/22. My case involves Talbot county, Maryland having a fixed bail schedule and people are required to pay a cash bond in a fixed dollar amount for each ^{misdemeanor} ~~felony~~ and felony charge faced or else remain incarcerated, as courts have long recognized, any bail or bond scheme that mandates payment of pre-fixed amounts for different offenses in order to gain pretrial release, without any regard for indigence, not only violates the fourteenth Amendment's equal protection clause, but also constitutes bad public policy. The state of Maryland and Talbot county has violated my constitutional rights, The trial court denied all my bail reviews, all my appeals (The Judges brother is a member of the appellate court), including the Maryland Supreme court and I was only requesting a constitutionally adequate bail review hearing and to be released pretrial pending the outcome of the case but my case will help many others in regards to Talbot county's bail practice, I have suffered emotional harm and I even filed a lawsuit against Easton, MD in U.S. District court in Baltimore, MD (1:22-cr-02443-JKB) for these unconstitutional bail practices and respondents violated my rights by jailing me because I can't afford a cash payment of a generic fixed schedule used by Talbot county, \$50,000 10% is excessive in violation of my 8th Amendment right, I am praying this court grants my petition so change can take effect in Talbot county (Known as Easton, MD).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jerez coleman

Date: 12/12/22