

VCF395131 Ruling on Bail Motion  
*People v. Benzeevi, Germany and Greene* (VCF401053)  
March 23, 2022

03/23/2022

STEPHANIE CAMERON, CLERK

Rilene Santos, Deputy

On March 18, 2022, the Court considered defendant, Benzeevi's motion to reduce bail. At the conclusion of that hearing the Court tentatively determined to reduce the bail from \$4,135,000.00 to approximately \$1,000,000.00. The bail was apparently set in the current amount by the magistrate at the time the arrest warrant was issued and was based upon the charges alleged in the complaint as required by the Tulare County Superior Court Bail Schedule. There has been no previous review of the bail amount in this case.

While the record of the hearing on the motion is probably sufficient to indicate the Court's conclusions regarding the appropriate amount of bail, the parties have requested a more succinct statement of the Court's rationale.

The parties generally agree on the law that applies to this issue and the Court concurs that California Constitution, Article I, section 12 as refined by Penal Code section 1275 provide the factors the Court must consider in setting bail, including reducing or denying bail. Those factors include: 1) public safety (the primary consideration); 2) defendant's prior criminal record; 3) probability of the defendant appearing at trial; 4) the seriousness of the offense charged, including alleged injury to victims, threats, firearm or other weapon use or involvement of controlled substances.

The parties also generally agree that the focus of the inquiry in the present case is the extent to which the defendant may be a flight risk. The only other factor that might arguably apply is the serious nature of the charges alleged. While it is true that the charges are serious (many are felonies) and involve alleged breaches of public trust and allegations of numerous crimes of moral turpitude — which allege thefts of significant amounts of money — they are not the type of serious charges that the statute probably intended to include within its purview. The emphasis of the bail statutes regarding this factor appears to be focused on "public safety" in a more literal sense; that is, the crime is "serious" because of the extent of alleged injury and if released on bail, the defendant would present an unreasonable risk because of threats, use of firearms or other weapons or substance abuse. The type of risk characterized by the statutory factors seems to be immediate and physical risk of harm, not present in the criminal conduct alleged against defendant, Benzeevi.

The record on the hearing established facts sufficient for the Court to find that defendant, Benzeevi is potentially a flight risk, and the court need not recount that analysis here. The Court has also determined that some bail is necessary to ensure that the defendant does not flee the jurisdiction during the pendency of the case. To that end, the Court has reviewed the second amended complaint and the bail schedule to determine the appropriate amount of bail.<sup>1</sup>

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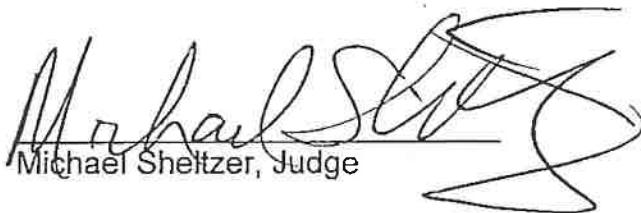
<sup>1</sup> It is worth noting that the co-defendants are charged with similar types of offenses as defendant, Benzeevi, and they have been released on their own recognizance. While each defendant is entitled to

As the Court indicated at the bail hearing, a number of the charged offenses relate to a course of alleged conduct over clearly identifiable overlapping time periods. It appears that on the face of the complaint, some of the alleged crimes overlap or charge similar conduct as other charges. The Court is aware of its discretion to set consecutive bail for separate victims or separate crimes involving the same victim, however, in keeping with the bail schedule recommendations regarding consecutive bail amounts when multiple offenses are charged, the Court is inclined to impose bail in amounts reflected by the most serious offenses.

For example, there are several conflict-of-interest charges alleged pursuant to Penal Code section 1090. Because this conduct is duplicative of other substantive offenses alleged, the court is eliminating the bail on those counts. Likewise, there are a number of misdemeanor crimes alleged pursuant to Government Code section 91000; bail will be eliminated on these counts as well for the same reason. In addition, the felony conspiracy charge in Count 39 alleged conspiracy to commit a misdemeanor, a wobbler. Bail in this count will be reduced to \$10,000.00 per to the bail schedule. In Count 46, bail was apparently calculated adding the enhancement (Penal Code section 186.11) to the substantive charge for a total of \$550,000.00. The Court will set bail only for Penal Code section 186.11, in the amount of \$500,000.00. The total of these reductions decreases the bail by \$130,000.00.

The remaining issue relates to the calculation of bail for the Penal Code section 514 allegation in Count 40. The bail schedule provides for \$50,000.00 bail or the amount of the theft whichever is greater. Apparently, the bail for this offense alone was determined to be \$3,000,000.00, with the loss as calculated by the District Attorney and alleged in the complaint. The Court has not heard any evidence in this case and acknowledges that the truth of the allegations are regarded as true for the purpose of setting bail, however, the amount of loss in Count 40 has been called into question. The District Attorney in a footnote concedes that "around" \$120,000.00 was "recovered" or somehow not lost. Because the uncertainty of the amount of loss in this count, the Court is inclined to reduce the bail to the schedule amount of \$50,000.00. As indicated at the time of the bail hearing the Court will re-consider the bail issue at the conclusion of the preliminary hearing, should either party wish to revisit the issue.

Bail for defendant Benzeevi is set at \$1,055,000.00, based upon the considerations and calculations set forth here. The Court finds that this amount will be sufficient to ensure that defendant Benzeevi appears at all further proceedings, including trial in this case.

  
Michael Sheitzer, Judge



the court's individualized determination of the appropriate bail amount, the co-defendants' bail was set to zero dollars because of the state-wide emergency COVID bail schedule requirements in place at the time their bail amount was set.