

1 Ryan J. Stevens (026378)  
2 GRIFFEN & STEVENS LAW FIRM, PLLC  
3 609 N. Humphreys Street  
4 Flagstaff, Arizona 86001  
5 Tel. (928) 226-0165  
6 Fax (928) 752-8111  
7 [office@flagstaff-lawyer.com](mailto:office@flagstaff-lawyer.com)  
8 *Attorneys for Defendant*

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

11 STATE OF ARIZONA,

12 Plaintiff,


13 vs.

14   
AKA EPONA ROSE,

15 Defendant.

Case No. CR 2023-00700

**MOTION TO MODIFY RELEASE  
CONDITIONS AND FOR PUBLIC  
SAFETY ASSESSMENT**

16 Defendant,  AKA Epona Rose, by and through undersigned  
17 counsel, respectfully moves this Court to review and modify her conditions of release,  
18 pursuant to Rule 7, Arizona Rules of Criminal Procedure. Specifically, Ms. Rose moves  
19 this Court for an order releasing her to the supervision of Pretrial Services pursuant to  
20 Ariz. R. Crim. P. 7.2(a).  
21

22 Ms. Rose has no meaningful financial resources to post a bond. The \$500,000  
23 bond imposed at the Initial Appearance is immeasurably out of her financial reach.  
24  
25  
26

1 Notably, at the time of the Initial Appearance, Ms. Rose had been booked into jail on a  
2 theory of attempted murder.<sup>1</sup> Her bond seems to reflect that.

3  
4 However, the Grand Jury has not indicted Ms. Rose on attempted murder. The  
5 Indictment contains two felony charges (both Aggravated Assault per dangerous) and  
6 three misdemeanor charges.

7 Ms. Rose is not a flight risk. Prior to this matter, Ms. Rose was unhoused by  
8 choice because she travels for her advocacy and activism. Ms. Rose dedicates her life to  
9 providing personal support to marginalized people and communities, including the  
10 Native American and transgender communities, and others in need. She passionately  
11 pursues solidarity across different marginalized groups.

12  
13 Ms. Rose fully understands that, if released, she will no longer be able to travel  
14 extensively and participate in an unhoused on-the-road lifestyle. Ms. Rose has  
15 exceptionally strong community support who are fully committed to ensuring Ms. Rose  
16 will have stable local housing in Arizona and reliable transportation to all court hearings.

17  
18 Ms. Rose's criminal history, although not yet disclosed to the defense, includes  
19 various offenses dating back to at least 2013 involving numerous misdemeanor charges  
20 (typically related to trespassing because of Ms. Rose's environment and pro-tribal  
21 activism). According to online research, she had one or two felony charges in Tennessee  
22  
23  
24  
25

26 \_\_\_\_\_  
<sup>1</sup> In addition to other felony booking charges.

1 that were reduced to misdemeanors. She may have a felony charge or conviction from  
2 Minnesota from 2021 relating to climbing onto an excavator.<sup>2</sup>

3  
4 Ms. Rose is fully committed to participating in her defense in this case. She  
5 enjoys very strong support from her community, who also support her involvement in  
6 the case. There is no expectation here that Ms. Rose will fail to appear or otherwise fail  
7 to participate in the legal process of this case.

8  
9 The alleged events of this case are in contention. Ms. Rose was touched sexually  
10 without her consent. She was subjected to transphobic statements. She was vulnerable,  
11 unsafe, and alone among a group of 4 or 5 men. Her actions were limited to the unique  
12 situation in which she found herself as a woman of trans experience.<sup>3</sup>

13  
14 Ms. Rose is not a threat to the public, or any person, and she will gladly abide by  
15 a no contact order because she has no desire to have contact with the alleged victims.  
16 She will be able to reside locally in Arizona. She would welcome Pretrial Services  
17 supervision. She will abide by all orders, including abstaining from alcohol.

18  
19 Ms. Rose moves for a Public Safety Assessment to be completed, if not already  
20 done, and disclosed to her counsel.

21  
22 Ms. Rose's current bond is excessively high. She remains in custody solely due  
23 to a lack of financial resources.

24 \_\_\_\_\_  
25 <sup>2</sup> A Public Safety Assessment will clarify her criminal history, as the above-referenced information is  
likely incomplete.

26 <sup>3</sup> Ms. Rose disputes the alleged victim's claims about what was stated and what transpired. At the time  
of this filing, the defense only has access to the probable cause statement. However, the defense  
expects to receive the initial disclosure soon.

1           **I.       LAW AND ARGUMENT**

2           The Court “must not impose a monetary condition that results in unnecessary  
3           pretrial incarceration solely because the defendant is unable to pay the imposed  
4           monetary condition.” Rule 7.3(d)(2)(A). The Court “must impose the least onerous  
5           conditions of release set forth in Rule 7.3(c).” Rule 7.2(a)(2).  
6

7           **A. Defendant is not a flight risk nor threat to the public safety.**

8           Rule 7.2(a) of the Arizona Rules of Criminal Procedure mandates that “any  
9           defendant charged with an offense bailable as a matter of right must be released pending  
10          and during trial” unless the court finds that the defendant is a flight risk, or risk to another  
11          person or the community, in which case the court “must impose the least onerous  
12          conditions of release set forth in Rule 7.3[.]”  
13

14          Rule 7.3(c) provides an extensive list of less onerous conditions than holding a  
15          defendant in custody on a bond which he cannot afford:  
16

- 17          1.     Third party custody, Rule 7.3(d)(1)(A);
- 18          2.     Restrictions on travel, associations or residence, Rule Rule 7.3(d)(1)(B);
- 19          3.     Prohibiting possession of dangerous weapons, Rule 7.3(d)(1)(C);
- 20          4.     Engaging in certain activities or using alcohol, Rule 7.3(d)(1)(D);
- 21          5.     Pre-trial supervision, Rule 7.3(d)(1)(E);
- 22          6.     Returning the defendant to custody after specified hours, Rule  
23                7.3(d)(1)(F); or
- 24          7.     Any other non-monetary condition reasonably related to securing the  
25                defendant’s attendance or protecting others from risk of harm, Rule  
26                7.3(d)(1)(G).

24          In this case, Pretrial Services supervision is appropriate, along with orders  
25          limiting travel, abstaining from alcohol use, and prohibiting possession of dangerous  
26          weapons.

1 Ms. Rose’s pursuit of her passions, including activism and advocacy while  
2 traveling and choosing to live unhoused, should not negatively impact her opportunity  
3 for pretrial release. Ms. Rose simply does not have significant financial resources and  
4 has already been determined by a court to be indigent. Article 2, Section 15 of the  
5 Arizona Constitution prohibits excessive bail, mandating as follows: “Excessive bail  
6 shall not be required[.]” The Arizona Constitution further requires that “[a]ll persons  
7 charged with crime shall be bailable by sufficient sureties,” except for certain  
8 enumerated crimes not relevant to this case. ARIZ.CONST., Art. 2, Sec. 22(A).  
9  
10

11 **B. Application of the factors of A.R.S. § 13-3967(B).**

12 Rule 7.2(a)(3) requires the Court to consider the factors set forth in A.R.S. § 13-  
13 3967(B). Those factors apply to this case as follows:  
14

- 15 1. ***Views of the victim(s).*** No information on this factor is known currently to  
16 the defense.
- 17 2. ***Nature and Circumstances of the Offense Charged.*** Ms. Rose is charged  
18 with two felony counts of Aggravated Assault and three misdemeanor counts.  
19 Ms. Rose asserts that she acted in self-defense after being touched sexually  
20 without consent and subjected to transphobic and aggressive rhetoric and  
21 actions.
- 22 3. ***Accused’s Prior Record for Serious, Violent, or Aggravated Felony.*** Ms.  
23 Rose has some history of charges, but it is not immediately apparent to the  
24 defense which, if any, resulted in felony convictions, as many appear to be  
25 dismissed and/or reduced to misdemeanors.
- 26 4. ***Evidence That Accused Poses Danger to Others in Community.*** Ms. Rose is  
not a danger to the community. She has *been in* danger, has been attacked,  
has been assaulted, and has been targeted while traveling unhoused as a  
woman of trans experience, which certainly played a role in the unique  
circumstances of this case.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

- 5. **Results of Domestic Violence Risk or Lethality Assessment.** There is no evidence of domestic violence in this case.
  
- 6. **Weight of Evidence Against Accused.** The defense has not received the initial disclosure from the State yet. The weight of the evidence will be in dispute, and Ms. Rose will pursue a justification defense under Arizona law.
  
- 7. **Accused’s Family Ties, Employment, Financial Resources, Character and Mental Condition.** Ms. Rose has no financial resources with which she can post a meaningful bond. Ms. Rose is well-known in her community as an advocate and activist of good character and stable mental condition. Ms. Rose has not chosen a “traditional” path of employment and the pursuit of income. She chooses to live unhoused, to travel, and to dedicate her life to protecting marginalized communities and the environment. Her financial sacrifices for the causes and people she believes in should not deny her an opportunity at pretrial release.
  
- 8. **Results of Drug Tests.** There are none known in this case.
  
- 9. **Whether Accused Is Using Illegal Drugs.** Ms. Rose is not using illegal drugs.
  
- 10. **Whether Offense Involves Methamphetamine.** It does not.
  
- 11. **Length of Residence in Community.** Ms. Rose has traveled through the community previously but does not reside in this community. She chooses not to pursue the traditional concept of residence. But if she is released, her supporters will ensure she can reside locally in Arizona during the pendency of this case.
  
- 12. **Accused’s Record of Arrests/Convictions.** Ms. Rose has some history of arrests and convictions, most appearing to be out-of-state and reduced to misdemeanors or dismissed. However, a PSA will document her felony convictions, if any exist.
  
- 13. **Accused’s Record of Appearing or Non-Appearing for Court.** Ms. Rose has an open container charge in Williams Municipal Court from 2018 when she was traveling through, which resulted in an FTA warrant. The bond is currently unsecured, however. Ms. Rose is well-aware that the present case is serious and that her attendance at all hearings will be required. She is fully committed to appearing for court as required.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26


**14. Whether Accused Has Been in the United States Illegally.** Ms. Rose is a U.S. citizen.

**15. Whether Accused’s Residence is in Arizona or Another State.** Ms. Rose is unhoused, by choice, because she travels for her advocacy and to offer personal support to marginalized people and communities, including the Native American and transgender communities. She does not necessarily subscribe to the concept of a single “residence” but is an American citizen and will be able to reside locally in Arizona if so required during the pendency of this case. She has strong support, and her allies will help her ensure attendance at all hearings.

Respectfully, the above-stated factors weigh in favor of releasing Ms. Rose to Pretrial Services supervision. She cannot afford to pay a monetary bond of any significance.

**DATED** this 21st day of August, 2023.

**GRIFFEN & STEVENS LAW FIRM, PLLC**

By   
\_\_\_\_\_  
Ryan J. Stevens  
Attorney for Defendant

COPY of the foregoing emailed this 21st day of August, 2023 to:

Coconino County Attorney  
Attn: Jonathan Mosher, Esq.

By: Lisa Cureton