



OFFICE OF THE DISTRICT ATTORNEY
TWENTIETH JUDICIAL DISTRICT

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Press Release

Until recently, judges could hold hearings in First-Degree Murder cases and other cases and, if presented with sufficient evidence, set a no-bond hold. That bond setting required defendants to remain in custody for the pendency of the murder prosecution. In the Smith case (attached), the Colorado Supreme Court recently decided that no-bond holds are no longer permitted in First-Degree Murder cases. The Colorado Supreme Court held that the phrase “capital offenses” plainly and unambiguously refers to offenses for which the General Assembly has statutorily authorized the imposition of the death penalty. With the repeal of the death penalty in 2020, there is no provision that would allow for the murder to be defined as a “capital offense.” No-bond holds are still permitted in the other offenses listed under C.R.S. 16-4-101. So, there are other offenses short of murder for which a no-bond hold is still possible. This change only applies to offenses committed after July 1, 2020.

This court decision will have a significant and difficult impact. **There are three reasons for significant concern.** First, it seems incongruent that defendants charged with murder are now eligible for bond, while other crimes of violence are not eligible for bond. Also, it creates an inequity in that more wealthy defendants can make bond in murder cases. Finally, in murder cases, a release on bond is a possible threat to community safety. This office will continue to argue for appropriate bonds in all misdemeanor and felony cases, including and especially murder cases.

Since the Smith decision, throughout the State of Colorado, courts have been required to consider and set bond reductions in First-Degree Murder cases. Earlier this week, the first such motion was heard in this jurisdiction. In the Anthony Franchitti case, the defendant is charged with First-Degree Murder in Boulder County. The court was required to set a bond, based on the Smith decision. The defense asked for a bond of \$750,000. The District Attorney’s Office requested a bond of \$10 million dollars. The Court analyzed each factor in the bond statute as well as the Smith decision from the Colorado Supreme Court. The judge set bond at \$10 million dollars. Also, in the event the defendant posts that bond, the Court ordered a protection order, no weapons, relinquishment of all firearms and ammo, surrender of passport, GPS prior to any release, no alcohol, no drugs, no marijuana, and alcohol monitoring.

There is an effort underway to have the Legislature address this issue for First-Degree Murder, through a ballot measure. The District Attorneys of Colorado, including this office, are strongly advocating for legislative action and a ballot measure to address the bond issue on First-Degree Murder cases.

District Attorney Michael Dougherty stated, “The logic and reasoning of the Colorado Supreme Court may make sense, but the consequences of this decision are immediate and severe. It must be addressed by Colorado as quickly as possible. I am concerned for the loved ones of murder victims, the safety of our community, and the possibility that a wealthy murder defendant could post bond and flee the jurisdiction. I guarantee that our office will fight for appropriate bonds to be set by judges, especially so in murder cases. This case demonstrates what’s at stake and I am glad that the judge granted the bond request of the District Attorney’s Office.”

As in every criminal case, these charges are merely an accusation and the defendants are presumed innocent unless or until proven guilty.