

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-240510
	:	TRIAL NO. B-2403059
Plaintiff-Appellee,	:	
vs.	:	
EL HAJJ EVANS,	:	<i>JUDGMENT ENTRY</i>
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

El Hajj Evans appeals the trial court’s order granting the State’s motion to hold Evans without bail while he awaits trial on multiple felony charges, including two counts of murder with specifications and two counts of felonious assault with specifications.

The State filed a motion, requesting that Evans be held without bond under R.C. 2937.222. Delecia Grisby, an officer with the homicide unit of the Cincinnati Police Department, testified at the hearing. She testified that she responded to a call about a shooting in a residential area of College Hill consisting of homes owned by elderly and life-long-resident families. When the officers arrived, they found Demarko Page, deceased, inside the Wilmont Court home. A blood trail was located from the grassy area in the front yard to the living room where Page died. Shell casings were found in the street leading to the home. Multiple witnesses stated that Evans fired a series of shots, then another series of shots after a brief pause, and the victim and

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several bystanders ran into the house. A surviving victim, Page's brother, also ran into the house.

Witnesses reported to Grisby that Evans sped down the street in a silver SUV, parked, and immediately jumped out of the car, and engaged in a fistfight with Page. Several times, the two were separated but reengaged in fighting. In total, there were three fist fights. It was evident that Evans had a gun because the butt of the gun was visible sticking out of his pants pocket.

Grisby further testified that she watched a video that showed the gun. The video depicted Page, with his hands up, saying, "Put the gun away. I'll fight you. Put the gun away and I'll fight you." Evans continued to instigate a fist fight with Page.

According to witnesses, eventually, Page wielded a crowbar, but someone took the crowbar from him and threw it into the yard. After the third altercation, Page began spitting at Evans, saying, "Herpes spit, Herpes spit." Evans responded, "If you spit on me again, I'm going to shoot you." Page spit again, and Evans fired multiple shots. Page was struck at least four times, and eight or nine casings were retrieved from the scene.

When Evans arrived, he was accompanied by three women. According to the women, criminal charges had been filed against Page for violence against one of the women, which triggered the event, and prompted the drive to Page's home. Evans had a conflict with Page, and a witness who knew both parties heard Evans on phone calls saying he was going to drive to Wilmont Court to confront Page.

Evans returned to the scene after the police arrived, admitted to the shooting, and gave his gun to the police. Evans accompanied the police to the station, stated that he acted in self-defense, and was released. When the State decided to charge

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Evans, his counsel was informed, and Evans surrendered to the police within a short amount of time.

D.W., the best friend of the victim, testified that Page's family members were present in court, and that his mother, brother, and sister were scared and felt that they or other witnesses could be in danger if Evans were released. Evans knew where Page's mother lived, which was not far from the victim's home. D.W. admitted that he was unaware of any incidents with Evans since the shooting.

The court granted the motion, finding:

1) The State proved by clear and convincing evidence that the proof is evident and the presumption great that the accused committed a qualifying offense, murder, as set forth in the indictment.

2) The State proved by clear and convincing evidence that the defendant poses a substantial risk of serious physical harm to the community and further that no release conditions reasonably assure the safety of the community.

3) In making its determinations, the Court considered the following based on the presentation at the hearing:

a) the offense was a violent gun offense at a fight on a public road;

b) there is substantial weight to the evidence that the Defendant committed the offense, although the Defendant may credibly raise self-defense at trial;

c) the defendant does not have an extensive criminal history, has ties to the community, and did not flee from the allegations during the initial investigation;

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d) the potential threat to the community includes escalating gun violence, and on-going potential street violence.

After due consideration, the Court concludes the State has met its burden. The nature and circumstance of the offense, murder, and the weight of the evidence factors are in favor of the State.

Given the nature and circumstances of the offense, and the risks of gun violence and its collateral consequences, the state has met its burden of showing an ongoing risk of serious physical harm to the community. Further, the nature and circumstances of the offense demonstrate that release conditions alone, including an electronic monitor, do not reasonably assure the safety of the community.

The State is not required to prove that the actions of the Defendant were not self-defense at this stage of the proceeding. The Defendant still has the burden of going forward with the trial defense of self-defense. At trial, the jury will be properly instructed on the higher burden of proof for both guilt and self-defense.

Evans now appeals arguing that the trial court erred in not considering his claim of self-defense, and that the evidence was insufficient to establish that he posed a substantial risk of serious physical harm to the community or that no release conditions would reasonably assure safety to the community.

R.C. 2937.222 provides that a defendant charged with certain serious offenses, including, as relevant to this appeal, a first degree felony, may be denied bail if the trial court holds a hearing and finds, by clear and convincing evidence, that: (1) “the proof is evident or the presumption great that the accused committed [the charged offense]”; (2) “the accused poses a substantial risk of serious physical harm to any person or to

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the community”; and (3) “no release conditions will reasonably assure the safety of that person and the community.” R.C. 2937.222(A) and (B). When reviewing whether a court’s denial of bail is supported by clear and convincing evidence, we “review the record” to ascertain whether the trial court had sufficient evidence before it to satisfy the clear-and-convincing standard.” *State v. Sowders*, 2022-Ohio-2401, ¶ 28 (1st Dist.). “Clear and convincing evidence is that ‘which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.’” *State v. Justice*, 2023-Ohio-435, ¶ 16 (10th Dist.), quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

The trial court found that “the proof is evident and the presumption great that the accused committed a qualifying offense, murder, as set forth in the indictment.” The testimony at the hearing included that multiple eyewitnesses informed the police that Evans shot Page multiple times. Evans sped down the street to Page’s home, jumped out of his SUV, and immediately confronted Page and began a fight. One witness stated that Evans intended to confront Page that day. After the three fights ended, Page spit on Evans stating, “Herpes spit.” Evans warned Page that if he spit on him again, Evans would shoot him. When Page spit again, Evans fired his gun, multiple times, and after a brief pause, fired another series of shots. Page, who was shot four times, ran into his home, where he died. Other bystanders also ran into the house when the shooting began. Page’s brother was also shot. Notably, Evans admitted that he committed the shooting.

Under R.C. 2937.222(A), the state’s burden is limited to “proving that the proof is evident or the presumption great that the accused committed the offense with which the accused is charged.” The record contains sufficient evidence that Evans committed the offense as required by the plain language of R.C. 2937.222.

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The record reflects that Evans asserted the self-defense claim to officers at the scene and at the station, and that the court considered the self-defense claim. The merit of Evans’s self-defense claim is “a question to be determined at trial.” *State v. Foster*, 2008-Ohio-3525, ¶ 13 (10th Dist.).

In determining whether the accused poses a substantial risk of serious physical harm and whether there are conditions of release that will reasonably assure the safety of that person and the community, the trial court shall consider all of the following:

(1) The nature and circumstances of the offense charged, including whether the offense is an offense of violence or involves alcohol or a drug of abuse;

(2) The weight of the evidence against the accused;

(3) The history and characteristics of the accused, including, but not limited to, both of the following:

(a) The character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, and criminal history of the accused;

(b) Whether, at the time of the current alleged offense or at the time of the arrest of the accused, the accused was on probation, parole, post-release control, or other release pending trial, sentencing, appeal, or completion of sentence for the commission of an offense under the laws of this state, another state, or the United States or under a municipal ordinance.

(4) The nature and seriousness of the danger to any person or the community that would be posed by the person’s release.

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Evans is accused of committing felony “offense[s] of violence,” which is a factor we must consider. *See* R.C. 2937.222(C)(1). The offense was a violent gun offense that occurred in the cul-de-sac of a residential street of primarily single-family homes. Evans sped down the street, jumped out of his vehicle, and immediately initiated a fistfight, with no apparent provocation by Page. Evans fired multiple shots in the vicinity of several persons who were present, resulting in Page’s death and the wounding of Page’s brother.

The statement of D.W., the victim’s best friend, expressed the fear Page’s mother, brother, and sister had for themselves, the witnesses, and the community. The victim’s family particularly feared for the victim’s mother because Evans knew where she lived, and who lived near the victim. The court found that despite Evans’s minimal criminal history, his community ties, and that he did not flee the allegations, Evans posed a threat to the community due to the escalating gun violence and on-going potential for more violence. As this court has previously noted, the lack of a criminal history “ignores the violence and weapon use that occurred in the facilitation of these offenses.” *State v. Sowders*, 2022-Ohio-2401, ¶ 34 (1st Dist.).

Based on this record, there was sufficient evidence to permit the trial court to conclude, by clear and convincing evidence, that the proof is evident or the presumption great that Evans committed the charged offenses, that Evans poses a substantial risk of serious physical harm to any person or to the community, and that no release conditions will reasonably assure the safety of that person and the community.

Accordingly, we overrule the assignment of error and affirm the judgment of the trial court.

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The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

**ZAYAS, P.J., BERGERON and KINSLEY, JJ.**

**To the clerk:**

**Enter upon the journal of the court on 12/4/2024 per order of the court.**

**By:** \_\_\_\_\_  
**Administrative Judge**