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

STATE OF OHIO,	:	APPEAL NO. C-260299 TRIAL NO. B-2103456-A
Plaintiff-Appellee,	:	
vs.	:	
SEANDELL MCCRARY,	:	
Defendant-Appellant.	:	*JUDGMENT ENTRY*

ZAYAS, Presiding Judge.

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.

Seandell McCrary appeals the trial court's order granting the State's motion to hold him without bail, pursuant to R.C. 2937.222, while he awaited retrial on trafficking and possession of a fentanyl-related compound, both first-degree felonies, and trafficking and possession of a fentanyl-related compound, with major-drug offender ("MDO") specifications, also first-degree felonies. McCrary was previously convicted of the offenses, but this court reversed the convictions because he did not knowingly waive his right to counsel. *See State v. McCrary*, 2026-Ohio-1263, ¶ 52 (1st Dist.). Notably, this court also held that the convictions were supported by sufficient evidence. *See id.* at ¶ 58.

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 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).

McCrary argues that the State failed to present clear and convincing evidence that he posed a danger to any person or the community because the State's sole argument was that "drugs are generally dangerous." McCrary further argues that the State failed to prove that no release conditions would reasonably assure the safety of any individual and the community because he was not a flight risk, had many ties to the community, and was successfully out on bond with EMU prior to his first trial.

Under R.C. 2937.222(C), in determining whether an accused poses a substantial risk of physical harm to any person or the community 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 available information regarding 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.

In reviewing the factors, regarding the "nature and circumstances of the offenses charged," McCrary is accused of committing felony offenses which involve fentanyl, a drug of abuse. *See* R.C. 2937.222(C)(1). This appellate court found that the evidence against McCrary was sufficient to support his convictions at the first trial. *See McCrary*, 2026-Ohio-1263, at ¶ 58 (1st Dist.); R.C. 2937.222(C)(2).

The trial court recognized that McCrary had strong community ties, as testified to by his mother, but noted that he was on federal parole when these offenses were committed. *See* R.C. 2937.222(C)(3)(a), (b). McCrary had a past criminal history of at least one federal conviction. *See* R.C. 2937.222(C)(3)(a). While incarcerated in the jail, McCrary possessed drugs three times, fought with inmates four times, threatened to kill a police officer on one occasion, and "was found in possession of a surprising and shockingly large amount of other contraband." *See* R.C. 2937.222(C)(4). During the pendency of his first trial, McCrary was found in contempt of court and sentenced to 30 days in jail.

The court further found that McCrary posed a risk of substantial harm to himself and to the community. While violating his electronic-monitoring curfew, McCrary was shot. The court found that shootings are a risk to anyone nearby, including innocent bystanders. Additionally, McCrary continued to engage in drug trafficking, even from the jail, and fentanyl carries the highest risk of harm, death by overdose. The court found that the risk of harm of McCrary's actions to the community satisfied the second prong.

The record reflects that the State presented clear and convincing evidence to support each factor in R.C. 2937.222(C), including the officer's testimony, McCrary's criminal history, his prior bond violations and revocations, and past conduct in jail. In its decision, the court found that McCrary had previously had his bond revoked twice, he was shot while violating his electronic monitoring conditions, shootings are a risk to anyone nearby, including innocent bystanders, and he continued to engage in drug trafficking, even from the jail. The court found that fentanyl carries the highest risk of harm, death by overdose.

The court found that McCrary was not successful while released on bond. McCrary had previously had his bond revoked twice, violated his EMU on multiple occasions, and continued to sell drugs. And the State provided two exhibits highlighting his multiple EMU violations. During one of McCrary's EMU violations, he was shot at 4:00 a.m. Additionally, the State submitted an exhibit detailing McCrary's infractions while in the jail, including that he had sold drugs in the jail, was found with contraband and illegal electronics, was routinely placed in administrative segregation, participated in multiple fights, and threatened to kill a police officer on one occasion. The State noted that someone outside of the jail assisted McCrary's drug sales while incarcerated.

The court concluded, "There are not conditions of release that the Defendant will follow: the Defendant continues to traffic in drugs, the Defendant will [not] obey electronic monitoring, and as such, the Defendant poses a substantial risk to his safety and others." The court's findings were supported by the record.

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 McCrary committed the charged offenses, that he 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 McCrary's sole assignment of error and affirm the judgment of the trial court.

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.

BOCK and **MOORE, JJ.,** concur.

To the clerk:

Enter upon the journal of the court on 9/9/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer A. Hensley
Administrative Judge