

1 STEPHEN M. WAGSTAFFE, DISTRICT ATTORNEY
County of San Mateo, State of California
2 State Bar No. 78470
500 County Center, Third Floor
3 Redwood City, CA 94063
By: Sharron H. Lee, Deputy District Attorney
4 Telephone: (650) 363-4636
Attorney for Plaintiff
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7

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By /s/ Brendan Thane
Deputy Clerk

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN MATEO

10 THE PEOPLE OF THE STATE OF CALIFORNIA

11 Plaintiff,

12 vs.

14 RAFAEL PRADO,

15 Defendant.

No. 25-SF-009921-A

**PEOPLE'S OPPOSITION TO
DEFENSE MOTION TO
REDUCE BAIL**

Date: July 3, 2025
Time: 9:00am
Dept: PH

16
17 **PROCEDURAL HISTORY**

18 On June 20, 2025, the People filed a complaint charging Defendant with the following six
19 offenses:

- 20 1. PC 288(a) with 1203.066(a)(8) – sodomy
- 21 2. PC 288(a) with 1203.066(a)(8) – oral copulation
- 22 3. PC 288(c)(1) – sodomy
- 23 4. PC 288(c)(1) – oral copulation
- 24 5. PC 288(c)(1) – oral copulation
- 25 6. PC 311.11(a) - possession of child sexual abuse material

All six offenses involve the same Confidential Victim. The offenses occurred between
September 2022 through June 2025.

1 At Defendant's initial arraignment date on June 20, 2025, the Court set bail at \$300,000 after
2 argument. The PDP was appointed and the matter was put over for attorney and plea. On June 27,
3 2025, Mr. Neil Hallinan made a general appearance and requested to be heard on bail. The court set
4 the matter for bail hearing on July 3, 2025, with the understanding defense would file a written bail
5 motion. This motion responds to Mr. Hallinan's bail motion filed on July 1, 2025. Defendant has yet
6 to enter to a plea. The People herein oppose any reduction in bail.

7
8 **SUMMARY OF FACTS**

9 On April 7, 2025, the 15-year-old Confidential Victim (hereinafter "CV") called police
10 seeking help for his mental health and because he had been kicked out of his house and had nowhere
11 to sleep. After his mother's death, CV had been passed between a family member and then his
12 biological father who ultimately surrendered him to CPS and foster care.

13 On April 29, 2025, CV had stabilized and participated in a Forensic Interview. CV shared his
14 struggles with drugs and experiences exchanging sex for drugs and money. After approximately an
15 hour into the interview, CV disclosed that there was a specific male adult (later identified as the
16 Defendant) who was the first person to introduce CV to sexual contact with adults.

17 CV first met Defendant when he was 13 years old in the eighth grade. They had seen each
18 other at CV's middle school when Defendant was working for the City of East Palo Alto as a security
19 guard in the library. Defendant and CV started communicating on Instagram and Defendant sent CV
20 a picture of his penis. Defendant asked CV whether he smoked and arranged for them to smoke
21 together at Defendant's home. Defendant picked CV up in his car and drove CV to his house where
22 they smoked marijuana and used crystal methamphetamine. Defendant also poured an unknown
23 liquid into CV's drink. While CV was half-asleep and feeling "drugged out," CV performed oral sex
24 on Defendant and Defendant sodomized CV. CV was 13 years old and Defendant was twelve years
25 older than CV. CV remembered coming in an out of consciousness with Defendant on top of him.

After this first experience, CV explained that he met with Defendant multiple times over the

1 next 7 months to a year. CV stated they had sexual relations approximately 7-10 times and CV
2 described several specific occasions of oral sex and sodomy. In addition to knowing CV was in
3 middle school, CV told Defendant his age because Defendant kept asking him. CV had conflicted
4 feelings towards Defendant and even said he felt love for him.

5 On June 17, 2025, Defendant was arrested. Multiple sex toys were located in the front
6 passenger seat of his car. A video of CV naked orally copulating an adult male was found in
7 Defendant's cell phone. This video was dated January 27, 2025.

8 Defendant's adult criminal history¹ is as follows:

Date	Charge	Docket	Sentence
02/16/16	PC 504/487 misd	Santa Clara (B1582818)	2 yr CP, 60 d CJ
11/28/18	VC 23152(b) misd VC 20002 dismissed per plea	San Mateo (18SM010116A)	3 yr CP, 4 d CJ
12/07/21	VC 23152(b) misd	San Mateo (20SM005126A	MDUI court 3 yr SP, 10 d CJ

15 Of note, the Defendant was participating in MDUI Court and appearing before this court in
16 case 20SM005126A in 2021-2023 while committing the charged offenses in the present case. In that
17 case (20SM005126A), Defendant suffered a probation violation for several positive drug tests,
18 numerous missed appointments, an unexcused absence from the Sheriff's Work Program, and not
19 taking the program seriously. Defendant was terminated from the MDUI program unsuccessfully in
20 2023.

21 Although Defendant did not suffer a formal probation violation in 18SM010116A, he was on
22 probation at the time he committed the new offense in 20SM005126A. In 18SM010116A, Defendant
23 collided with a parked vehicle on May 28, 2018, causing major damage to both cars. Defendant was
24 seen fleeing the scene on foot but contacted at his residence 10 minutes later significantly intoxicated.

25

¹ Defendant also has a noteworthy juvenile history.

1 Defendant spontaneously told the Officers, “I fucked up, I had to try though.” Defendant confirmed
2 he was in the collision but refused to provide either a blood or breath sample despite being advised of
3 implied consent. His blood was taken pursuant to an arrest warrant and yielded 0.137 BAC more
4 than three hours after the collision.

5 In 20SM005126A, the Defendant was pulled over for continuously and excessively sounding
6 his horn while driving on November 20, 2019. Although Defendant appeared intoxicated and there
7 was an almost empty bottle of Hennessey on the front passenger floorboard, he denied drinking
8 alcohol and refused all FSTs. Defendant’s blood resulted in a 0.274 BAC.

9 **POINTS AND AUTHORITIES**

10 **I. THE SERIOUSNESS OF THE CRIMES AND THE RISK TO PUBLIC SAFETY**
11 **WARRANT “NO BAIL” IN THIS CASE PURSUANT TO THE *IN RE HUMPHREY***
FRAMEWORK

12 An individualized analysis of the Defendant under the *In re Humphrey* rubric supports a finding
13 that he is danger to the victims and the public by clear and convincing evidence and that no other
14 means or no conditions short of detention suffice to protect the public. The primary consideration in
15 setting bail is the safety of the victim. *In re Humphrey* (2021) 11 Cal. 5th 135, 152-153 (citing Cal.
16 Const., art. I, § 28, subd. (f)(3)); see also Pen. Code, § 1275.

17 *In re Humphrey* (2021) 11 Cal. 5th 135, the California Supreme Court held that a trial court must
18 consider several factors, including an ability to pay and alternatives to money bail, when setting bail.
19 The California Supreme Court explained that a court setting bail should consider whether there are less
20 restrictive conditions that could vindicate compelling government interests: the safety of the victim and
21 the public more generally or the integrity of the criminal proceedings. *Id* at 143. To help facilitate the
22 proper considerations by the court in setting bail, the California Supreme Court provided a general
23 framework for bail determinations. *Id.* at 152-156.

24 The court must consider “the protection of the public as well as the victim, the seriousness of
25 the charged offense, the arrestee’s previous criminal record and history of compliance with court

1 orders, and the likelihood that the arrestee will appear at future court proceedings.” *Id.* at 152. The
2 court setting bail also must consider the safety of the victim and the victim’s family, which, along
3 with public safety, “will be the primary considerations in those determinations.” *Id.* at 152-153 (citing
4 Cal. Const., art. I, § 28, subd. (f)(3)); see also Pen. Code, § 1275.

5 When conducting the individualized bail examination, the court must assume the truth of the
6 criminal charges. *In re Humphrey, supra*, 11 Cal. 5th at 153. Additionally, the standard of proof
7 required to justify pretrial detention based on defendant being a danger to the victim or public or a
8 flight risk is clear and convincing evidence. *Ibid.*

9 If the court finds that the defendant poses a risk of flight or a risk to public or victim safety, the
10 court should consider whether nonfinancial conditions of release may reasonably protect the public
11 and the victim or reasonably assure the arrestee’s presence at trial. *Id.* at 154. If the court concludes
12 that money bail is reasonably necessary, then the court must consider the individual arrestee’s ability
13 to pay. *Ibid.*

14 The Court of Appeal in *In re Kowalczyk* (2022) 85 Cal App 5th 667², opined: “Although the
15 *Humphrey* court made clear that a trial court must consider a defendant’s ability to pay in making a
16 bail determination, *Humphrey* did not suggest that a court is precluded from setting bail at an
17 amount beyond a defendant’s means when necessitated by the circumstances presented.” *Id.* at 689.
18 In setting bail above the amount a Defendant can afford, the Court of Appeal said:

19 [T]he Court “must first find by clear and convincing evidence that no
20 condition short of detention could suffice and then ensure the detention
21 otherwise complies with statutory and constitutional
22 requirements...Detention in these narrow circumstances doesn’t depend
23 on the arrestee’s financial condition. Rather, it depends on the
24 insufficiency of less restrictive conditions to vindicate compelling
25 government interests: the safety of the victim and the public more
generally or the integrity of the criminal proceedings.

Ibid.

² *In re Kowalczyk* (2023) 305 CalRptr3d 440 (petition for review granted, but published option may be cited).

1 Furthermore, the *Kowalczyk* court explained that both Cal Const Article 1 section 12 and
2 section 28(f)(3) govern bail determinations in noncapital cases. *Id.* at 672. Article 1, Section 12 of
3 the California Constitution provides in pertinent part:

4 A person shall be released on bail by sufficient sureties, except for:
5 (b) Felony offenses involving acts of violence on another person, or felony
6 sexual assault offenses on another person, when the facts are evident or
7 the presumption great and the court finds based upon clear and convincing
8 evidence that there is substantial likelihood the person's release would
9 result in great bodily harm to others ...

10 Article 1, Section 28(f)(3) of the California Constitution provides that one of the rights which
11 victims of crime hold is due consideration in the setting of bail. Section 28(f)(3) states in pertinent
12 part:

13 In setting, reducing or denying bail, the judge or magistrate shall take into
14 consideration the protection of the public, the safety of the victim, the
15 seriousness of the offense charged, the previously criminal record of the
16 defendant, and the probability of his or her appearing at the trial or hearing
17 on the case. Public safety and the safety of the victim shall be the primary
18 considerations.

19 In this case, Defendant is charged with felony sexual assault offenses bringing this case within
20 section 28(f) of Article I section 12 of the California Constitution. These PC § 288(a) offenses are
21 violent and serious offenses within the meaning of Penal Code §§ 667.5(c) and 1192.7(c). The Court
22 may detain Defendant based on clear and convincing evidence that no nonfinancial conditions of
23 release ensure public safety or the victims' safety interests.

24 **II. DEFENDANT HAS NOT DEMONSTRATED HE CANNOT AFFORD BAIL**

25 While Defendant's motion has a printout from Transparent California as to his 2023 salary,
there is not sufficient information for the court to determine Defendant's ability to post bail.
Defendant was assigned a private defendant at no cost to him by the court but has subsequently been
able to retain private counsel. That speaks to some means beyond what may be gleaned from his
\$16,352 salary and the defense cannot satisfy its burden of showing Defendant lacks the ability to
pay.

1 **III. SETTING “NO BAIL” IS CONSISTENT WITH WHAT IS WARRANTED UNDER**
2 **THE FACTS OF THIS CASE**

3 Counsel’s recitation of the CV’s conduct related to his sex acts and drug abuse is not relevant to
4 this bail motion and serves only to victim shame CV. Counsel spent approximately 5 pages of 20
5 substantive pages describing CV’s drug use and sexual history but failed to acknowledge that
6 Defendant’s actions were what initiated CV into using sex to get drugs. Contrary to counsel’s
7 description of CV being “a male appearing to be old enough to legally consent and who conducted
8 himself in a way that would lead a reasonable person to believe that he was of the age of majority,
9 Defendant first met CV at his middle school and learned very quickly exactly what CV’s age was.
10 Defendant is 12 years older than CV and was working as a security guard at the library for the City of
11 East Palo Alto and did not immediately cease contact with CV. Defendant met with and engaged in
12 sexual acts on numerous occasions although he is charged with only six counts after knowing exactly
13 how young CV was. There is no credible argument to be made that Defendant had a good faith belief
14 that CV was an adult despite counsel’s attempts to do so by attaching photographs of CV wearing
15 makeup. The facts are that Defendant was quite aware of CV’s age, and it did not stop him.

16 Counsel’s assertion that Defendant did not unduly influence, or force CV is concerning when the
17 evidence shows that CV was literally drugged before Defendant sodomized him for the first time and
18 continued to provide a 14 year old with drugs in order to continue sexual contact. The sexual conduct
19 is substantial, including sodomy and oral copulation. Defendant’s criminal history also demonstrates
20 non-compliance with court directives and a disregard for law enforcement and the criminal justice
21 system. Defendant has violated probation, has a prior failure to appear (in case 18SM010116A), and
22 court involvement has not deterred his criminal activity. Despite being on probation almost
23 continuously since 2016, Defendant reoffends with increasing seriousness. Defendant’s behavior in
24 this matter clearly demonstrates that he continues to present a danger to CV and the public. Penal
25 Code § 1275(a) provides:

1 (1) In setting, reducing, or denying bail, a judge or magistrate shall take
2 into consideration the protection of the public, the seriousness of the
3 offense charged, the previous criminal record of the defendant, and the
4 probability of his or her appearing at trial or at a hearing of the case. The
5 public safety shall be the primary consideration. In setting bail, a judge or
6 magistrate may consider factors such as the information included in a
7 report prepared in accordance with Section 1318.1.

8 (2) In considering the seriousness of the offense charged, a judge or
9 magistrate shall include consideration of the alleged injury to the victim,
10 and alleged threats to the victim or a witness to the crime charged, the
11 alleged use of a firearm or other deadly weapon in the commission of the
12 crime charged, and the alleged use or possession of controlled substances
13 by the defendant.

14 Penal Code § 1275 further requires that before a court reduces bail below the bail schedule for
15 a person charged with a serious or violent felony, “the court shall make a finding of **unusual**
16 **circumstances** and shall set forth those facts on the record.” Penal Code § 1275(c).

17 In *In re Humphrey*, the California Supreme Court suggested different types of conditions that
18 a bail-setting court may consider as nonfinancial conditions of release: electronic monitoring;
19 supervision by pretrial services; community housing or shelter; stay-away orders; and drug and
20 alcohol testing and treatment. *Id.* at 21. “Where the record reflects the risk of flight or a risk to public
21 or victim safety, the court should consider whether the nonfinancial conditions of release may
22 reasonably protect the public and the victim or reasonably assure the arrestee’s presence at trial.” *Id.*
23 at 20.

24 Defendant’s exposure in this case is significant and the allegations pursuant to PC § 1203.066
25 make him ineligible for probation. The San Mateo County bail schedule is as follows:

PC 288(a) : \$100k
PC 288(c) : \$75k
PC 311.11 : \$25k

26 In this case, no measure of nonfinancial conditions will sufficiently and reasonably protect the
27 public. Electronic monitoring, protective orders, and check-ins with pretrial services will not
28 adequately ensure public safety where the Defendant is still at large to contact the victims or attack

1 future victims. These measures do not prevent him from engaging in ongoing criminal behavior. He
2 has articulated his philosophy on breaking the law when he fled from the police "I had to try though."
3 He has refused to provide blood or breath tests both times he was arrested for driving under the
4 influence. Defendant does not believe he has to follow the law. The court cannot be satisfied that he
5 will lead a law-abiding life given his criminal history and prior performance on probation. Contrary
6 to counsel's assertion in his motion, there is very clear and convincing evidence that Defendant
7 presents such a danger to the community that he falls within the exception and should be held at no
8 bail.

9 The threat of repercussions including time in custody is not a sufficient deterrent nor a
10 sufficient assurance Defendant will appear in court as demonstrated by his prior poor performance on
11 probation. For these reasons, the People oppose a reduction in bail and believe that "no bail" is
12 appropriate under the *Humphrey* rubric.

13 Sexual assault is a crime that the California Legislature has consistently recognized the
14 significant risk of recidivism among sex offenders. For instance, § 290.03 explicitly states that sex
15 offenders pose a "potentially high risk of committing further sex offenses after release from
16 incarceration or commitment," emphasizing the paramount public interest in protecting the public
17 from reoffending by these offenders.

18 Additionally, California courts have affirmed this legislative perspective. In *People v. Mosley*
19 (2015) 60 Cal.4th 1044, the court noted the "grave concerns over the high rate of recidivism among
20 convicted sex offenders and their dangerousness as a class," citing studies that describe the risk of
21 recidivism as "frightening and high". Proposition 83, also known as Jessica's Law, further reflects
22 the electorate's view that sex offenders "have very high recidivism rates" and are "the least likely to
23 be cured and the most likely to reoffend" *People v. Miranda* (2021) 62 Cal.App.5th 162, *People v.*
24 *Williams* (2024) 17 Cal.5th 99. This legislative and judicial consensus demonstrates that sexual
25 assault is indeed regarded as a crime with high recidivism rates in California.

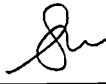
1 CONCLUSION

2 Based on the foregoing points and authorities, the serious nature of the charges, the potential
3 sentence in prison, the risk inherent to the victim and the public if the Defendant is released, the lack
4 of adequate less restrictive conditions of release, the People oppose a reduction in bail and request the
5 Court order “no bail” in this case. The facts of this case establish by clear and convincing evidence
6 that Defendant is a significant danger to the public and victims.

7
8
9 Dated: June 27, 2025

10 Respectfully submitted,

11 STEPHEN M. WAGSTAFFE, DISTRICT ATTORNEY

12
13 By 
14 Sharron H. Lee, Deputy District Attorney

15 SHL/shl

PROOF OF SERVICE BY MAIL

Case No. 25-SF-009921-A

1. I am over 18 years of age and not a party to this action. I am employed in the county where the mailing took place.

2. My main business address is:

Office of the District Attorney
500 County Center, 3rd Floor
Redwood City, CA 94063

Office of the District Attorney
1050 Mission Road
South San Francisco, CA 94080

Office of the District Attorney
222 Paul Scannell Drive
San Mateo, CA 94402

3. On July 2, 2025, I mailed from Redwood City, California, the following document:

PEOPLE'S OPPOSITION TO DEFENSE MOTION TO REDUCE BAIL

4. I served the documents by enclosing them in an envelope and (*check one*):

- a. placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
- b. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.

5. The envelope was addressed and mailed as follows:

Neil P. Hallinan
345 Franklin St. Law Chambers Building
San Francisco, CA 94102-4427

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Pam Driscoll