

STATE OF WISCONSIN,

Plaintiff,

v.

STEVEN A. AVERY,

Defendant.

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED
FEB 27 2006

CLERK OF CIRCUIT COURT

Case No. 2005-CF-381

DEFENDANT'S MOTION TO MODIFY BAIL

Steven A. Avery, by counsel, now moves the Court pursuant to WIS. STAT. § 969.08(1) for an order modifying the financial condition of bond to permit sureties pledging real property, rather than cash, as security for Mr. Avery's release and his compliance with terms and conditions of bond. WIS. STAT. § 969.03(1)(d). As grounds for this motion, Mr. Avery explains:

1. He is presumptively innocent of the current charges, and at all times has said that he is actually innocent. The only other time he has insisted that he was actually innocent, he was. It took 18 years for the State of Wisconsin to believe him. But he was right, and the law enforcement, prosecution, and corrections officials were wrong.

2. Nevertheless, Mr. Avery is in jail now. He has not been convicted of doing anything unlawful with respect to the current charges.

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(1)

3. Mr. Avery, by reason of 18 years of past experience, may be more sensitive than most to the difficulty of spending time in jail for a crime that one did not commit. At a time when the law absolutely presumes him innocent, and when he has explained many times that he in fact is innocent, it is particularly wrong to incarcerate this man once again.

4. The trial in this case is months away, necessarily. Given the nature of the case and the time necessary for pretrial proceedings, Mr. Avery would be held in jail much longer than the norm, were he not released on bond.

5. Mr. Avery cannot assist counsel adequately in defending him while in jail. In jail, he cannot review police reports in privacy, assist counsel by showing counsel personally relevant places and things on the Avery Salvage property, or enjoy the full support of his family and fiancée.

6. Mr. Avery was born in Manitowoc County. His parents were born in Manitowoc County. Almost all of his nieces, nephews, brothers, sisters, children, and parents live in Manitowoc County. He has lived in Manitowoc County his entire life, save the 18 years that the State of Wisconsin wrongfully required him to live in prisons located far from his home. There is no reason to think that he will flee Manitowoc County if conditionally released on bond, particularly given the financial loss that would befall his family if he failed to comply with conditions of bond.

7. He wants a fair trial. If he must remain in jail until and during trial, he will not have a fair trial under all of the circumstances.

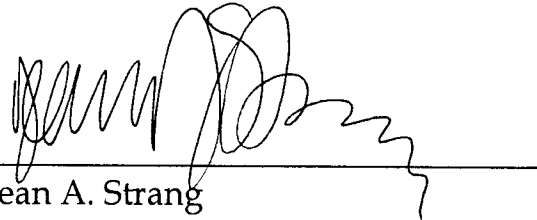
8. The Wisconsin Statutes invite an appearance bond with sufficient solvent sureties, WIS. STAT. § 969.03(1)(d), and indeed list that as the first option to secure release. Cash is a second option only, in lieu of sureties.

9. Mr. Avery's parents, Allan and Delores Avery, are solvent sureties and offer their real property to secure their son's bond. They believe in him.

Dated at Madison, Wisconsin, February 24, 2006.

Respectfully submitted,

HURLEY, BURISH & STANTON, S.C.



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