



JASON ROGERS WILLIAMS
ORLEANS PARISH DISTRICT ATTORNEY

June 24, 2021

Metropolitan Crime Commission
Board of Directors
1615 Poydras St., Ste. 1060
New Orleans, L.A. 70112

Dear Metropolitan Crime Commission Board Members,

I am writing to express serious concern over the consistently partisan practices of Rafael Goyeneche related to the work of the Orleans Parish District Attorney's office. This office understands and appreciates the role of independent watchdog groups to ensure good government and outcomes. Watchdog groups serve a vital function. However, Mr. Goyeneche has consistently behaved in a manner that does not align with the independent watchdog role in which the Metropolitan Crime Commission professes and is designed to act. Our office has met with your Board to share our vision and work, and we have attempted on multiple occasions to directly communicate proactively with Mr. Goyeneche.

This pattern of unobjective and nonfactual media commentary must be addressed if the Metropolitan Crime Commission is to live up to its mission statement. Constructive criticism is a pillar of our democracy. However, providing false public commentary to support claims for alarm is dangerous, makes the work of the criminal legal system harder, and decreases public safety. The Metropolitan Crime Commission's mission to bring accountability and transparency to the criminal justice system is futile if proper investigation, facts, and the law is disregarded when your staff makes public comments.

Mr. Goyeneche's false assertions on June 15, 2021 to Fox 8 that the DA's Office did not oppose the bond reduction in the hearing of Bryan Andry, and the claim that our office is breaking the law and making the public less safe unless we oppose bonds is the latest example that Mr. Goyeneche will use any means to criticize our administration and alarm the public irrespective of facts. The record is clear that this office did oppose this bond reduction on February 1, 2021 in open court.

I am attaching the court transcripts from the above referenced matter for your review. Additionally, I would encourage the Board to consider watching the New Orleans City Council Criminal Justice Committee Hearing that took place on June 16, 2021 where the Criminal Court

judges confirmed the law and position of the District Attorney that the Court is responsible for setting bail. Not the District Attorney.

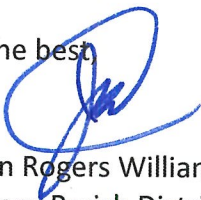
On January 27, 2021, only 17 days into our administration, Mr. Goyeneche participated in a separate interview with Fox 8 where he asserted that our office's policy to no longer oppose parole applications was problematic and suggested that our office would not assist victim families who wanted to testify at parole hearings when our office stated on the record on the same date that we would in fact continue to support victims in sharing their perspective.

Then, on February 24, 2021, Mr. Goyeneche did an interview with Fox 8 attempting to alarm the public claiming that my hiring of a former Juvenile Public Defender as Chief of the DA's Juvenile Division posed a conflict of interest. Mr. Goyeneche is clearly aware or should be aware that the law does not prohibit a lawyer who has been a public defender from later serving as a prosecutor, and there are conflict of interest protocols for all lawyers that must be abided by. He was certainly aware that former District Attorney Leon Cannizzarro also worked as criminal defense attorney. In that same interview, Mr. Goyeneche suggested that the DA's Office was violating the law by placing some juvenile offenders in intervention programs. Like the previous matter, Mr. Goyeneche is fully aware that the District Attorney has discretion on charging decisions and whether to place someone in a diversion program to receive intervention services. Mr. Goyeneche is also aware that my predecessors also had diversion programs in place.

Again, our administration absolutely recognizes the need for independent entities committed to holding the criminal justice system accountable, but the Metropolitan Crime Commission must ensure that its staff and entire organization is held to the same standard as they attempt to hold others. The continued actions of Mr. Goyeneche and his unwillingness to foster a constructive, respectful and honest relationship is causing unnecessary distractions to the work required to increase safety and justice in Orleans Parish.

Thank you for your attention to this concerning matter. I look forward to your response and any corrective measures that will help prevent these unnecessary and unfair actions in the future.

All the best,



Jason Rogers Williams
Orleans Parish District Attorney

CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

STATE OF LOUISIANA

VERSUS

CASE NO. 548-795

BRYAN M. ANDRY

SECTION "L"

Hearing on Bond Reduction

Argument heard in the above-entitled and -numbered cause, before the **HONORABLE ANGEL HARRIS**, Judge presiding on Monday, the 1st day February 2021 via Zoom Conference.

APPEARANCES:

REPRESENTING THE STATE OF LOUISIANA:

ERIC CUSIMANO, ESQ.

ASSISTANT DISTRICT ATTORNEY

REPRESENTING THE DEFENDANT, BRYAN ANDRY:

LINDSAY MARKEL, ESQ.

ORLEANS PARISH PUBLIC DEFENDERS

REPORTED BY:

PINKEY FERDINAND, CCR

OFFICIAL COURT REPORTER

IN AND FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

PROCEEDINGS
(February 1, 2021)

1
2
3 **THE COURT:**

4 All right. And then we had Mr. Andry.
5 Mr. Andry?

6 **MS. MARKEL:**

7 Good morning, Judge, Lindsay Markel on
8 behalf of Brain Andry. He's present in
9 court over Zoom. We're set for a Motions
10 Hearing this morning, I think probably in
11 both matters. I've emailed the Court and
12 Mr. Cusimano, Your Honor, a Motion to
13 Reduce Bond on behalf of Mr. Andry.
14 And I'm happy to make my argument on
15 that, but we were also going to ask Your
16 Honor if it would be possible at some point
17 in today's docket for Mr. Cusimano and
18 myself to discuss a possible resolution for
19 Mr. Andry at some point this morning.

20 **THE COURT:**

21 Okay. No problem. We can -- I will
22 give you an opportunity to discuss a
23 possible resolution if we can wait to --
24 closer to the end of the docket. We have a
25 pretty short docket this morning, so it
26 shouldn't be too --

27 **MS. MARKEL:**

28 No problem.

29 **THE COURT:**

30 -- be too long.

31 So, yes, for Case Number 5489 or --
32 548-795, with regard to the bond reduction,

1 set at 10, one set at 50; two counts of
2 95.1, one set at 70, one set at 25 --

3 **THE COURT:**

4 Okay.

5 **MR. CUSIMANO, ADA:**

6 That's what I have.

7 **MS. MARKEL:**

8 -- for a total of 245,000.

9 So, Judge, Mr. Andry has been detained
10 on that bond since he was arrested in April
11 of 2020. I have submitted as exhibits with
12 the bond reduction motion some medical --
13 or letters from medical doctors attesting
14 to the fact that members of Mr. Andry's
15 family are disabled, and that he is --
16 because of that, his detention is even more
17 of a hardship on his family, in particular,
18 his mother, Diane Marcelin (phonetic
19 spelling). She did appear and gave
20 testimony at a previous Motion to Reduce
21 Bond. That date was, I believe, September
22 of 2020, that that -- that she actually
23 gave testimony.

24 And she attested to the fact that
25 she has rheumatoid arthritis, and
26 as a result, her mobility is significantly
27 reduced, and she was very reliant upon
28 Mr. Andry for support: cleaning the house;
29 getting prescriptions; things like that,
30 not so much financially because she does
31 have a Disability check. She wanted to
32 make that clear, that she does not depend

1 on him financially, but support emotionally
2 and just logistically in her own life.

3 In addition, Mr. Marcelin takes care
4 of Mr. Andry's younger brother who is also
5 disabled. He -- I believe he is in a
6 wheelchair. He has limited mobility as
7 well, so that is the importance of
8 Mr. Andry's presence in their home.

9 And Mr. Andry, on his own was -- he
10 recently was multiple billed and sentenced
11 to 18 years flat early back in, I believe
12 the '90s. I don't know the alleged facts
13 of that offense, but I think that in
14 today's new climate that should be seen not
15 as an aggravator, but as a mitigator.
16 Mr. Andry was so severely punished for
17 something that today might receive
18 probation.

19 He -- when he was released from that
20 sentence, did really well for himself;
21 signed himself up for job training. He was
22 hooked up with Job 1. Unfortunately, had a
23 relapse. When he did that, checked himself
24 into substance abuse treatment and then,
25 unfortunately these charges came about, and
26 He's been incarcerated since then.

27 So Mr. Andry and I, and Mr. Andry and
28 I, and the Judge, and Mr. Cusimano, I
29 think -- if he was in fact the ADA at the
30 time -- have discussed the fact that

31 Mr. Andry is not

32 under illusions that the resolution of this

1 matter will not involve jail time.
2 However, he is very, very sincerely
3 dedicated to trying to get home to help
4 take care of his mother and his family
5 during the pandemic before that happened.

6 So, he -- I believe the overall
7 request would be to get a bond that his
8 family may be able to make without
9 significant hardship, knowing that he is,
10 again, intending to come back to court and
11 to resolve this matter on his own. He is
12 not trying to get out of that, he just
13 really needs to take care of his mother.

14 So I think our initial request was
15 going to be \$40,000, which I believe his
16 family would be in a position to make, not
17 immediately, but fairly soon, and we would
18 pair that with either in or out-patient
19 treatment, whatever he feels needing most
20 at the time.

21 **THE COURT:**

22 Okay. And is this his mother who's
23 on? I see a Quiana Andry.

24 **MS. MARKEL:**

25 I believe that that would be his
26 partner, Ms. Quiana.

27 **THE DEFENDANT:**

28 My wife.

29 **THE COURT:**

30 Oh, I'm sorry.

31 **MS. MARKEL:**

32 She may be with Ms. Marcelin. I'm not

1 speaks for itself when it comes to his
2 commission of a violent crime. I would
3 note -- and I cannot speak to the factual
4 basis of the Aggravated Burglary, but I can
5 speak to the sentence. It was a 15-year
6 sentence in 2005, but it's still fairly
7 recent. He was released on that charge,
8 and nonetheless finds himself here.

9 Additionally, Your Honor, the --
10 you know, if Ms. Markel's argument is he's
11 not trying to
12 sheik any responsibility for this, but and
13 would like to be released -- understanding
14 that this will be a jail-based sentenced
15 that we will likely be offering, I -- there
16 is, I don't think, any way, based upon the
17 fact allegations at issue in this case thus
18 far, that the State could consider anything
19 else, given the violent nature of this
20 offense and the serious nature of this
21 offense.

22 So it's a little bit of wanting to
23 have this both ways, of saying, well, it's
24 not that serious, but it is also that
25 serious, and he understands that. And I
26 don't see a way that that can be reconciled
27 at this time.

28 That is unfortunate. The factual,
29 various allegations at issue in this
30 case are also very unfortunate, as is the
31 strength of the evidence against him.

32 **MS. MARKEL:**

1 If I could just make a brief factual
2 correction, is that in both of the matters
3 --

4 **THE COURT:**

5 Ms. Markel? Ms. Markel, one second.
6 Sorry. We're having audio issues, so I
7 heard -- (Zoom distorted) -- if you could
8 start over.

9 **MS. MARKEL:**

10 Yes, just a brief factual
11 correction, is that in both of the alleged
12 Armed Robberies, there is not actually
13 strong evidence of a gun being present.
14 There is a -- in the Walgreens one, one of
15 the clerks allege that there was a firearm.
16 In the wal (phonetic) -- excuse me.

17 In the Frenchman Street incident, the
18 Complainant was explicit that she did not
19 see a gun, so.

20 **MR. CUSIMANO, ADA:**

21 Your Honor, I'll concede that
22 she's explicit as to not having seen it,
23 nonetheless, her belief and the
24 representation by the offender that a gun
25 was present and being used in the
26 commission of the offense, which is
27 sufficient for the purposes of the statute.

28 I'll concede that she did not report
29 seeing one but, nonetheless, believed him
30 to have one based upon his representations
31 at the time.

32 **MS. MARKEL:**

1 That would be -- satisfy the
2 statute of First Degree Robbery not of
3 Armed Robbery.

4 **MR. CUSIMANO, ADA:**

5 I appreciate that. I appreciate
6 there's is a factual dispute as to it, but
7 nonetheless, the offender purported that a
8 firearm was used and the victim very much
9 believed a firearm was at issue in the
10 case.

11 **THE COURT:**

12 And so can you remind me -- tell me
13 again the bond amounts that are currently
14 set.

15 **MS. MARKEL:**

16 They are -- on one count of Armed
17 Robbery with a Firearm, 10,000. On the
18 second count, 5,000 -- sorry, 50,000. I'm
19 so bad with zeros.

20 On one of the 95.1 counts, 70, and on
21 the second one, 25.

22 **THE COURT:**

23 Okay. It actually looks like for --
24 according to Docket Master, for the 64.1 --
25 for the Armed Robbery, that it's \$100,000,
26 and then for the other, it's \$50,000. But
27 you said that you see \$10,000, Ms. Markel?

28 **MS. MARKEL:**

29 No, I'm just really, really terrible
30 with zeros. I'm sorry. It should be 150.

31 **MR. CUSIMANO, ADA:**

32 I have 150 plus the 91.1s

1 totaling at \$95,000: The first, 70,000;
2 the second, \$25,000.

3 **THE COURT:**

4 Okay. And Ms. Markel, you were
5 talking about possible resolution of the
6 case. Can you -- you said that you spoke
7 with a DA that was working on this
8 previously? What were you saying with
9 regard to resolution?

10 **MS. MARKEL:**

11 Oh, Mr. --

12 **MR. CUSIMANO, ADA:**

13 That was me.

14 (Cross talk.)

15 **MS. MARKEL:**

16 -- Cusimano and I had a
17 discussion last week about essentially the
18 fact dispute that we are arguing about this
19 morning, whether the State would
20 offer First Degree Robbery, and if so, what
21 Your Honor's sentence might be.

22 **THE COURT:**

23 Okay. And you're asking for a total
24 bond of 40,000? Is that your request?

25 **MS. MARKEL:**

26 Yes, ma'am.

27 **THE COURT:**

28 Ms. Markel?

29 **MS. MARKEL:**

30 Yes. Yes, ma'am.

31 **THE COURT:**

32 And Mr. Andry was just released --

1 well, recently released for an Aggravated
2 Battery of which he served a 15-year
3 sentence; is that correct?

4 **MR. CUSIMANO, ADA:**

5 Aggravated Burglary --

6 **MS. MARKEL:**

7 Aggravated --

8 **MR. CUSIMANO, ADA:**

9 -- but, yes, ma'am.

10 **THE COURT:**

11 All right.

12 **MS. MARKEL:**

13 And I believe it was 18 years flat, if
14 I'm not mistaken.

15 **MR. CUSIMANO, ADA:**

16 According to the Minute Entry, 15 is
17 what I see, but I'll check it again.

18 **THE COURT:**

19 Okay. Yeah, that's what I saw in the
20 Minute Entry as well, 15 years.

21 **MR. CUSIMANO, ADA:**

22 It's a case out of Section "A",
23 448-587, just for the record.

24 **MS. MARKEL:**

25 I think it got to 18 because he was
26 billed.

27 **THE COURT:**

28 Okay.

29 **MR. CUSIMANO, ADA:**

30 That could be it.

31 **THE COURT:**

32 But Mr. Cusimano, with regard to

1 potentially resolving this case, how soon
2 do you think you would be able to get a
3 resolution?

4 **MR. CUSIMANO, ADA:**

5 Your Honor, I think we could have a
6 resolution as soon as next Monday or
7 Wednesday, at least in terms of having an
8 offer on the table. That's in part what I
9 wanted to discuss with you in terms of
10 where you would be if we were willing to
11 reduce it to a First Degree Robbery. I
12 agree that that is an issue of dispute in
13 the case. That said, I very much believe
14 that the evidence, you know, rest
15 ultimately on my side of the case.

16 That said, based upon whatever Mr.
17 Andry would be willing to accept, we may be
18 willing to compromise in terms of making an
19 offer to resolve this matter. I don't know
20 what that number would be from the State at
21 this time, but would be interested in
22 having that conversation with the Court,
23 more frankly, and believe I can have that
24 done by next week pretty easily.

25 **THE COURT:**

26 You said a First -- you said
27 potentially reducing it to a First Degree
28 Robbery; is that what you said?

29 **MR. CUSIMANO, ADA:**

30 That's what's been discussed. I would
31 be curious where the Court would stand in
32 terms of asking my office if we would

1 consider that, based upon the limited
2 factual area of dispute at issue in this
3 case.

4 **THE COURT:**

5 Okay. And Ms. Markel, you said it
6 would take Mr. Andry's family quite some time to
7 raise a \$40,000 bond?

8 **MS. MARKEL:**

9 So they have been working --
10 Mr. Andry, you can jump in if you know
11 better than I do. They've been working for
12 a long time, on trying to get money
13 together for bond in the hopes that it
14 might be reduced, so I'm not sure if 40
15 would be something they might be able to
16 make quickly or not.

17 Do you know, Mr. Andry?

18 **THE DEFENDANT:**

19 (Nodded.)

20 **MS. MARKEL:**

21 You think they could do that soon?

22 **THE DEFENDANT:**

23 Yes, ma'am.

24 **MS. MARKEL:**

25 Okay.

26 **THE COURT:**

27 One second.

28 (Brief pause.)

29 **THE COURT:**

30 And Ms. Markel, you mentioned
31 Mr. Andry had previously been in rehab, or
32 you were discussing rehab or

1 rehabilitation. Has he --

2 **MS. MARKEL:**

3 Yes, he did check himself into rehab
4 before his arrest on these charges. And in
5 working with an OPD social worker, we had
6 also gotten him approved for additional
7 treatment. Should he be able to make bond,
8 he could do that either in-patient or
9 out-patient, whichever the Court or
10 Mr. Andry thought more appropriate.

11 **RULING OF THE COURT**

12 **THE COURT:**

13 At this time I am going to grant the
14 motion, but not for the amount that Ms.
15 Markel is requesting.

16 I'm going to keep the \$25,000 bond for
17 the one count of Possession of a Firearm by
18 a Felon and reduce the \$70,000 bond to
19 \$25,000, and reduce the Armed Robbery --
20 both counts of the Armed Robbery to \$25,000
21 a piece, so a total of \$100,000.

22 **MR. CUSIMANO, ADA:**

23 Your Honor, if you could note the
24 State's objection.

25 **THE COURT:**

26 And with the requirement that if
27 Mr. Andry is able to get out, that he needs
28 to get enrolled in a drug rehabilitation
29 program. I also would like to speak with
30 both the State and Defense about a
31 resolution of this case.

32 **MR. CUSIMANO, ADA:**

1 Your Honor, additionally, if Mr. Andry
2 were released, the State would also request
3 an ankle monitor be a condition of that
4 release, given that --

5 **THE COURT:**

6 I'll grant -- I'll the State's
7 request.

8 **MR. CUSIMANO, ADA:**

9 Thank you, Your Honor.

10 **THE COURT:**

11 Okay.

12 **MS. MARKEL:**

13 Okay. Thank you, Judge.

14 (Side comments regarding an unrelated case.)

15 **THE COURT:**

16 Okay. So for Mr. Andry right now, do
17 we want to just set him for next week?

18 **MR. CUSIMANO, ADA:**

19 That's fine with me. We can set him
20 for a pretrial on Wednesday. I would say
21 Tuesday may be necessary in the event we are
22 able to work out a resolution. Obviously, we
23 wouldn't be able to take any plea or resolution
24 until Wednesday.

25 **THE COURT:**

26 Correct. We can set Mr. Andry for
27 both case numbers, 548-795, and Case Number
28 549-263 for February of -- yeah, next Wednesday,
29 February 10th for Pretrial. We'll call it a
30 Pretrial.

31 **MR. CUSIMANO, ADA:**

32 Thank you.

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THE COURT:

Ms. Markel, does that date work for you?

MS. MARKEL:

Yes. Thank you, Judge.

THE COURT:

Okay. All right. Mr. Andry, so we have you reset for next Wednesday to come back to court, okay?

THE DEFENDANT:

(The witness nods.)

(Side comments regarding an unrelated case.)

THE DEFENDANT:

Did my wife -- say my bond was reset at what?

THE COURT:

So it's --

MS. MARKEL:

It's a hundred.

THE COURT:

So it's not --

MS. MARKEL:

The total is \$100,000 now.

THE DEFENDANT:

Thank you.

(WHEREUPON, the proceedings were concluded.)

* * *

1 REPORTER'S PAGE

2
3 I, **PINKEY FERDINAND, Certified Court**4 **Reporter,** in and for the State of Louisiana, the officer
5 as defined in Rule 28 of the Federal Rules of Civil
6 Procedure and/or Article 1434 (B) of the Louisiana Code of
7 Civil Procedure, before whom this sworn testimony was
8 taken, do hereby state on the Record;9 That due to the interaction in the spontaneous
10 discourse of this proceeding, dashes (--) have been used
11 to indicate pauses, changes in thought, and/or talkovers;
12 that same is the proper method for a Court Reporter's
13 transcription or proceeding, and that dashes (--) do not
14 indicate that words or phrases have been left out of this
15 transcript;16 That any words and/or names which could not be
17 verified through reference material have been denoted with
18 the phrase "spelled phonetically."
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21 **PINKEY FERDINAND**
22 **CERTIFIED COURT REPORTER**
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