

In the
Indiana Supreme Court

John Yeager,
Appellant,

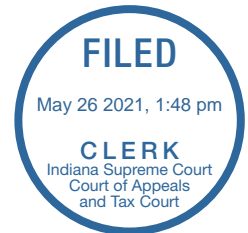
v.

State of Indiana,
Appellee.

Supreme Court Case No.
21S-CR-265

Court of Appeals Case No.
20A-CR-121

Trial Court Case No.
39C01-1911-F3-1322



Published Order

After the trial court denied the appellant's motion to reduce the amount of his pretrial bail, the Court of Appeals reversed in *John Yeager v. State*, 148 N.E.3d 1025 (Ind. Ct. App. 2020). The appellee sought transfer, and this Court held oral argument on the appellee's transfer petition. The Court is now informed that the trial court recently entered a judgment of conviction and sentencing, disposing of the underlying case. Thus, the question of the appellant's pre-trial bail is moot. See *Hill v. State*, 592 N.E.2d 1229, 1230 (Ind. 1992); *Partlow v. State*, 453 N.E.2d 259, 274 (Ind. 1983).

Being duly advised, the Court GRANTS transfer, thus vacating the Court of Appeals' opinion. See Ind. Appellate Rule 58(A). The Court DISMISSES this appeal as moot.

Done at Indianapolis, Indiana, on 5/26/2021.

FOR THE COURT

A handwritten signature in black ink that reads "Loretta H. Rush".

Loretta H. Rush
Chief Justice of Indiana

David, Massa, Slaughter, and Goff, JJ., concur.

Rush, C.J., dissents in part with separate opinion.

Rush, Chief Justice, dissenting in part.

Although I agree the question of Yeager's pretrial bail is now moot, I part ways with the majority's decision to grant transfer and dismiss the appeal. The effect of the order is to vacate the Court of Appeals opinion in its entirety. Ind. Appellate Rule 58(A).

I would rather deny transfer. This would terminate the parties' litigation before this Court but would leave valuable Court of Appeals precedent intact. App. R. 58(B).

Like the panel below, I believe the trial court abused its discretion when it denied Yeager's motion to reduce his \$250,000 cash-only bail. *Yeager v. State*, 148 N.E.3d 1025, 1029 (Ind. Ct. App. 2020). And there's little room for disagreement. After all, Yeager presented evidence of substantial mitigating factors showing he recognized the court's authority to bring him to trial; and there was no evidence he posed a risk to the physical safety of either the victim or the community. *See* Ind. Code §§ 35-33-8-4(b), -5 (2019). Additionally, the pretrial assessment report gave Yeager an Indiana Risk Assessment Score of "0" or "low" and recommended that he "be released to pretrial supervision with the added condition of electronic monitoring."

Yet, the trial court denied Yeager's motion to reduce bail, finding that he faced a thirty-two-year sentence (though Yeager ultimately received four and a half years, all suspended to probation). Certainly, a potentially lengthy sentence is relevant when deciding whether to reduce bail. *See Hobbs v. Lindsey*, 240 Ind. 74, 79, 162 N.E.2d 85, 88 (1959). But, given the overwhelming evidence that Yeager was neither a flight risk nor a safety threat, the possible penalty alone could not support the trial court's decision here. And, so, I agree with the Court of Appeals.

Notably, the panel below ordered Yeager's release on electronic monitoring and with a no-contact order in favor of the alleged victim, making the decision immediately effective notwithstanding Appellate Rule 65(E). In my view, the proper course would have been to remand the case with instructions to reduce Yeager's bail and allow the trial court to impose, within its discretion, any other conditions deemed necessary to

ensure Yeager's appearance as set forth in Indiana Code section 35-33-8-3.2. The panel's disposition, however, does not detract from the utility of its legal analysis on the bail reduction.

Decades ago, this Court was clear that "the object of bail prior to trial is to ensure the presence of the accused when required without the hardship of incarceration before guilt has been proved and while the presumption of innocence is to be given effect." *Hobbs*, 240 Ind. at 78, 162 N.E.2d at 88 (cleaned up). In this case, that object was not met; and the Court of Appeals properly explained why. Thus, I respectfully dissent and would deny transfer.