**STATE OF MICHIGAN**

**IN THE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**THE PEOPLE OF THE STATE OF MICHIGAN**,

 Plaintiff, **CASE NO.**

**v.**

, **HON.**

 Defendant.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

Attorney for Plaintiff: Attorney for Defendant:

CHRISTOPHER R. BECKER (P53752)

Kent County Prosecuting Attorney Kent County Office of the Defender

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**EX PARTE MOTION FOR BAIL REDUCTION**

Defendant, by and through the undersigned attorney, pursuant to the Eighth Amendment to the United States Constitution, Article 1, Section 16 of the Michigan Constitution, Michigan Court Rule 6.106, and Administrative Order No. 2020-1, moves this Court for release on his or her own personal recognizance and in support states as follows:

1. On January 1, 2020, this Court arraigned Defendant for Retail Fraud in the Second Degree, a non-violent offense, and set bail in the amount of $5000/10%.
2. Unable to post bail, Defendant remains in custody.
3. The Eighth Amendment to the United States Constitution and Article 1, Section 16 of the Michigan Constitution provide that excessive bail shall not be required. U.S. Const., Am. VIII; Mich. Const. 1963, Art. 1, §16.
4. Bail that is set at an amount higher than an amount reasonably calculated to give adequate assurance that the accused will stand trial and submit to sentence if guilty is excessive. *Stack v. Boyle*, 342 U.S. 1, 5 (1951); *see also* *United States v. Salerno*, 481 U.S. 739, 754 (1987) (“when the Government has admitted that its only interest is in preventing flight, bail must be set by a court at a sum designed to ensure that goal, and no more.”).
5. Accordingly, “the court must order the pretrial release of the defendant on personal recognizance, or on an unsecured appearance bond . . . unless the court determines that such release will not reasonably ensure the appearance of the defendant as required, or that such release will present a danger to the public.” MCR 6.106(C).
6. Even if a court determines that release on personal recognizance or on an unsecured appearance bond is insufficient, a court should first consider conditions other than money bail when making its pretrial release decision. *See* MCR 6.106 (D), (E).
7. Here, Defendants should be released on his own recognizance or on an unsecured appearance bond based on the factors set forth in MCR 6.106 (F).
8. In particular, the Court should give special attention to the following:
	1. ARGUMENT 1
	2. ARGUMENT 2
9. Moreover, on March 15, 2020, the Michigan Supreme Court issued Administrative Order No. 2020-1, authorizing trial courts “to implement emergency measures to reduce the risk of transmission of [COVID-19.]”
10. The Michigan Supreme Court is urging trial courts “to take into careful consideration public health factors arising out of the present state of emergency … in making pretrial release decisions, including in determining any conditions of release[.]” *See Johnston v. Marsh*, 227 F.2d 528, 530 (3d Cir. 1955) (medical emergency).
11. Careful consideration of public health factors warrants the release of Defendant on his or her own personal recognizance in this case.
12. In particular, the Court should give special attention to the following:
	1. ARGUMENT 1
	2. ARGUMENT 2

WHEREFORE, Defendant asks that this Court to grant this EX PARTE MOTION FOR BAIL REDUCTION and release Defendant on his or her own personal recognizance.

Respectfully submitted,

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