

STATE OF MAINE

SUPREME JUDICIAL COURT
Docket No. SJC-24-15

State of Maine

v.

**ORDER AFFIRMING
DENIAL OF BAIL**

Aaron Karp

Aaron Karp has been indicted for intentional or knowing murder in violation of [17-A M.R.S. § 201\(1\)\(A\)](#). A *Harnish* bail proceeding was held on September 20, 2024. Based on the evidence presented at the hearing, the Superior Court (Cumberland, *O’Neil, J.*) concluded that “the [S]tate has met its burden to establish probable cause that, [Karp] committed intentional or knowing murder which is a formerly capital offense,” [15 M.R.S. § 1027\(2\) \(2024\)](#), and accordingly “under the *Harnish* doctrine his constitutional right to bail is extinguished.” In addition, the court declined to consider discretionary bail because it “cannot conclude that there is no risk to the public or other individuals if [Karp] were to be released on bail.”

Karp has filed a petition seeking review the court’s order by a single Justice of the Maine Supreme Judicial Court. See [15 M.R.S. § 1029\(1\) \(2024\)](#); M.R.U. Crim. P. 46(e)(1). By order of the Chief Justice dated June 14, 2024, setting forth single justice assignments, this matter is assigned to me.

Maine Rule of Unified Criminal Procedure 46(e)(1) provides:

On receipt of the petition, the trial court's order, and the available record of the hearing below, the assigned justice will either conduct a hearing de novo or conduct a review, depending upon what is required under the law. Briefing and oral argument may be dispensed with by the assigned Justice.

Along with his petition, Karp has filed copies of the court's *Harnish* bail order; the parties' submissions to the trial court, including their supporting and opposing memoranda along with attachments; a transcript of the September 20 *Harnish* hearing; and the trial court docket record in CUMCD-24-3369. After reviewing the materials filed, I have determined that a hearing de novo is unnecessary, that this matter may be adequately reviewed on the materials submitted, and that further briefing and oral argument are unnecessary to address the issues raised.

Karp contends that the State's evidence "falls far short" of establishing that "[he] knowingly or intentionally killed the alleged victim" because even if he fired the fatal shots, "the deceased fired first, striking one of the individuals in the group of individuals that [Karp] was allegedly part of." In other words, Karp maintains that the court erred in determining probable cause because it failed to take into account that he was purportedly acting in self-defense. Further, he contends that "at most" the State's evidence established depraved

indifference murder, which was not a formerly capital offense, and does not establish intentional and knowing murder, therefore cash bail is required.

An appeal from a bail determination made after a *Harnish* hearing is governed by 15 M.R.S. § 1029(2), which provides:

With respect to the finding of probable cause to believe that the defendant committed a formerly capital offense, *the finding of the lower court shall be upheld, unless it is clearly erroneous* provided there is an adequate record for purposes of review.

(Emphasis added.) Here, there is “an adequate record for purposes of review.”

Probable cause in this context requires proof by “facts and circumstances . . . sufficient to warrant a prudent man in believing that the accused committed or was committing an offense. *Harnish v. State*, 531 A.2d 1264, 1266 (Me. 1997).

The court’s finding of probable cause is supported by competent evidence. Based on the record of the proceedings, there was evidence that on the date in question that an altercation took place involving multiple individuals firing gunshots. One individual who was fleeing the scene stopped, turned, and fired multiple shots in the direction of Susan McHugh, who was hit by gunfire and died as a result. The appearance of the shooter captured on video matched the appearance of Karp taken from a second video of an incident involving the same individuals that occurred earlier that same evening. Karp was independently identified by a witness. A motorcycle parked at his

residence matched one that appeared on a video of the scene. Location data from Karp's cell phone placed him at the scene at the time.

Karp's contention that he acted in self-defense does not negate the court's probable cause finding, nor does it mean that the crime charged is not a formerly capital offense. Even if the evidence may generate a potential self-defense justification at trial, that does not mean that Karp's actions did not amount to intentional or knowing conduct causing the decedent's death. In other words, the State is not required to negate a self-defense justification for purposes of meeting its burden at a *Harnish* bail proceeding of establishing probable cause to believe that a defendant committed the offense charged.¹

Finally, the court's determination that discretionary bail under 15 M.R.S. § 1029(3) is not warranted based on public safety concerns is supported by the record.

Accordingly, the order requiring Aaron Karp to be held without bail is AFFIRMED.

Dated: December 5, 2024

/s/ WRD
Wayne R. Douglas
Associate Justice
Maine Supreme Judicial Court

¹ Moreover, although unclear as to the context, it appears that the court did evaluate Karp's self-defense argument on the "limited evidence" presented and found it "problematic" because Karp and his associates may have initially provoked the use of deadly force and because Karp "stopped his exit from the scene to shoot multiple times."