

## Delaware Supreme Court Upholds High Bail for Noncapital Defendants



The Delaware Supreme Court has affirmed the constitutionality of setting high bail for noncapital defendants, emphasizing that the state's constitutional right to bail does not mandate affordability for potentially dangerous individuals. The case centered around Tyrese Burroughs, a previously convicted drug dealer described as a "gun-toting drug dealer," has sparked a debate on the balance between pretrial release and public safety.

Burroughs had argued that he should be granted pretrial release without the imposition of cash bail or with an affordable bail amount despite his prior felony conviction for drug trafficking in 2019. The Delaware Constitution guarantees all noncapital defendants the right to receive some bail amount deemed sufficient for pretrial release.

However, the Delaware Supreme Court clarified that this constitutional provision does not require bail amounts to be adjusted based on a defendant's ability to pay. Such an interpretation would potentially result in the release of all noncapital criminal defendants, regardless of the threat they may pose to society or the severity of their alleged offenses.

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Initially, a justice of the peace had set bail for Burroughs at a substantial \$110,501, which fell at the high end of the recommended bail guidelines. Following an unsuccessful appeal in the superior court, Burroughs eventually pleaded guilty to charges of possession of a firearm during a felony and illegal possession of a controlled substance. He was subsequently sentenced to three years in prison but continued to contest his bail situation through a direct appeal.

The state supreme court agreed to hear the case due to its significant constitutional implications, recognizing the need to thoroughly examine Delaware's bail system.

The court considered four critical issues in this case:

**Violation of Due Process (14th Amendment):** The first issue examined whether Delaware's bail system violated the due process clause of the 14th Amendment. The court ruled in favor of the state, finding no violation.

**Substantive Due Process Principles (14th Amendment):** The second issue questioned whether the bail system infringed upon substantive due process principles derived from the 14th Amendment. Once again, the court found no constitutional violations.

**Procedural Due Process:** The court also evaluated whether Burroughs received proper procedural due process throughout the bail process. The ruling confirmed that he did.

**Delaware Constitutional Violation:** Lastly, the court examined whether Burroughs' bail violated the Delaware Constitution. Ultimately, the court found that it did not.

The Delaware Constitution provides the framework for the state's bail system, stating, "All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is positive or the presumption great."

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While the court upheld the constitutionality of the current bail system, it acknowledged that improvements are needed. Currently, the system permits potentially dangerous but financially affluent defendants to secure pretrial release while detaining less affluent defendants without bail resources, even if they pose no less danger.

A pending constitutional amendment aims to address this issue by allowing pretrial detention for those charged with certain felonies when there is "positive proof or a great presumption" of guilt. However, the court emphasized that the decision to reform the bail system ultimately rests with the democratic process.

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