

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

People ex rel. Fankbonner v. Toulon

2020 NY Slip Op 07906 (App. Div. 2020) · No. Suffolk County Docket No. CR-032562-20SU · Decided
December 23, 2020

SUMMARY

The Appellate Division, Second Department sustained a writ of habeas corpus and set bail for Jianxin You in connection with a Suffolk County criminal matter. The court imposed financial bail alternatives and additional conditions, including passport surrender or an affidavit, electronic monitoring, and an extradition waiver affidavit.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Sylvia O. Hinds-Radix, J.; Valerie Brathwaite Nelson, J.; Paul Wooten, J.
JURISDICTION	New York
DECIDED	December 23, 2020
DOCKET	Suffolk County Docket No. CR-032562-20SU
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus in the nature of an application to set reasonable bail.
PRECEDENTIAL VALUE	Published opinion
PARTIES	The People ex rel. Edgar L. Fankbonner, on behalf of Jianxin You v. Errol D. Toulon, Jr.

TOPICS

- bail
- habeas corpus
- criminal procedure
- appellate procedure
- writ of certiorari

PRACTICE AREAS

- Criminal procedure
- Bail
- Habeas corpus
- Appellate procedure

QUESTIONS PRESENTED

1. Whether habeas corpus relief should be granted to set reasonable bail for Jianxin You.
2. What bail amount, alternative forms of bail, and conditions should govern You's release.

HOLDINGS

1. The writ of habeas corpus was sustained, and reasonable bail was fixed for Jianxin You.
2. Bail was fixed at \$750,000 by insurance company bail bond, \$2,250,000 by partially secured bond with 10% down, or \$375,000 in cash, subject to a bail source hearing and conditions requiring passport surrender or a no-passport affidavit, electronic monitoring, and an affidavit waiving opposition to extradition if You left the jurisdiction.

KEY QUOTATIONS

*“ADJUDGED that the writ is sustained and bail on Suffolk County Docket No. CR-032562-20SU, is fixed in the sum of \$750,000 in the form of an insurance company bail bond, \$2,250,000 in the form of a partially secured bond with the requirement of 10% down, or \$375,000 deposited as a cash bail alternative” (*1)*

FACTUAL BACKGROUND

Jianxin You was incarcerated on a Suffolk County criminal docket. The petitioner sought a writ of habeas corpus requesting that the court set reasonable bail. The Appellate Division fixed bail in three alternative forms and imposed passport-surrender, electronic-monitoring, and extradition-related conditions.

PROCEDURAL HISTORY

The petitioner sought habeas corpus relief on behalf of Jianxin You, who was incarcerated in connection with Suffolk County Docket No. CR-032562-20SU. The Appellate Division sustained the writ, fixed bail in specified alternatives, imposed conditions, and directed You's immediate release upon proof that the bail and conditions had been satisfied.

DISPOSITION

writ_granted

OPINION

PER CURIAM.

People ex rel. Fankbonner v Toulon (2020 NY Slip Op 07906) People ex rel. Fankbonner v Toulon 2020 NY Slip Op 07906 Decided on December 23, 2020 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on December 23, 2020 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department MARK C. DILLON, J.P. SYLVIA O. HINDS-RADIX

VALERIE BRATHWAITE NELSON PAUL WOOTEN, JJ. [*1]The People ex rel. Edgar L. Fankbonner, on behalf of Jianxin You, petitioner, vErrol D. Toulon, Jr., etc., respondent. Goldberger & Dubin, P.C., New York, NY (Edgar L. Fankbonner pro se of counsel), for petitioner.

Timothy D. Sini, District Attorney, Riverhead, NY (Lucie M. Kwon of counsel), for respondent. Writ of habeas corpus in the nature of an application to set reasonable bail for Jianxin You upon Suffolk County Docket No. CR-032562-20SU. ADJUDGED that the writ is sustained and bail on Suffolk County Docket No. CR-032562-20SU, is fixed in the sum of \$750,000 in the form of an insurance company bail bond, \$2,250,000 in the form of a partially secured bond with the requirement of 10% down, or \$375,000 deposited as a cash bail alternative, with a bail source hearing to be held pursuant to CPL 520.30, on condition that, in addition to posting a bond or depositing the cash alternative set forth above, Jianxin You shall (1) surrender all passports, if any, she may have to the Office of the District Attorney of Suffolk County, or, if she does not possess a passport, provide to the Office of the District Attorney of Suffolk County an affidavit in a form approved by the Office of the District Attorney of Suffolk County in which she attests that she does not possess a passport, and shall not apply for any new or replacement passports; (2) wear an electronic monitoring bracelet, with monitoring services to be provided by a qualified entity pursuant to CPL 510.40(4)(c), and any violations of the conditions set forth herein relating to the electronic monitoring shall be reported by the electronic monitoring service provider to the Office of the District Attorney of Suffolk County; and (3) provide to the Office of the District Attorney of Suffolk County an affidavit in a form approved by the Office of the District Attorney of Suffolk County in which she attests that if she leaves the jurisdiction she agrees to waive the right to oppose extradition from any foreign jurisdiction; and it is further, ORDERED that upon receipt of a copy of this decision, order and judgment together with proof that Jianxin You has posted bail in the sum of \$750,000 in the form of an insurance company bail bond, \$2,250,000 in the form of a partially secured bond with the requirement of 10% down, or \$375,000 deposited as a cash bail alternative, subsequent to the bail source hearing held pursuant to CPL 520.30, has arranged for electronic monitoring with a qualified entity pursuant to CPL 510.40(4)(c), has surrendered all passports, if any, she may have to the Office of the District Attorney of Suffolk County, or, if she does not possess a passport, provided to the Office of the District Attorney of Suffolk County an affidavit in a form approved by the Office of the District Attorney of Suffolk County, attesting that she does not possess a passport, and has provided the [*2]Office of the District Attorney of Suffolk County with an affidavit in a form approved by the Office of the District Attorney of Suffolk County, attesting that if she leaves the jurisdiction she agrees to waive her right to oppose extradition from any foreign jurisdiction, the Warden of the facility at which Jianxin You is incarcerated, or his or her agent, is directed to immediately release Jianxin You.

DILLON, J.P., HINDS-RADIX, BRATHWAITE NELSON and WOOTEN, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court

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