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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,

Plaintiff,

vs.

BRIAN ALLEN WILKINS,

Defendant.

No. CR 2008-145947-001 SE

**MOTION TO MODIFY CONDITIONS
OF RELEASE**

Oral Argument Requested

(Hon. DAVID UDALL)

COMES NOW the defendant, by and through undersigned counsel, and moves the Court to release him on his own recognizance, or in the alternative, to release defendant to custody of third party/pretrial supervision, or to reduce bond, for the following reasons:

1. Mr. Allen has been charged with one count of discharging a firearm in city limits, a class six felony, one count of disorderly conduct, a class six felony, one count of possession of marijuana, a class six felony, and one count of possession of drug paraphernalia, a class six felony. He is presently being held on a bond of \$54,000;
2. The bail is set at an amount more than necessary to secure the appearance of the defendant and is therefore excessive in violation of the Constitution of Arizona, article 2, section 15;

3. If released, he would reside 1223 West University Drive, #5, Tempe, Arizona (in the County of Maricopa)
4. Mr. Wilkins has been a resident of the State of Arizona consistently for the last 4 ½ years. If released, he will immediately return to school at Arizona State University, where he has paid tuition for the upcoming semester;
5. The Defendant has no prior failures to appear. As such, it is anticipated that he will likely receive an offer that would allow him to plead to an undesignated offense with the stipulation that he be placed on supervised probation. Since he is not likely facing a DOC term either upon conviction at trial or under a plea agreement, he has ample incentive to appear for all future court dates, and thus, is not a flight risk.
6. Mr. Wilkins has never failed to appear for a previous court date. Again, he is not a flight risk;
7. It is believed that the bond was set at \$54,000 early in the process when Mr. Wilkins was facing more serious charges. A bond in this amount is simply unnecessary to secure his appearance for future court dates when he is facing four class six felonies, two of which are proposition 200 type offenses.
8. Mr. Wilkins is requesting that he be release on his own recognizance. If the Court is unwilling to do that, he requests a pre-trial services release and will comply with drug testing if ordered. Failing that, he requests a bond not exceeding \$1,000.