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COURT OF APPEALS
STATE OF NEW YORK

PEOPLE EX REL BARTA,

Appellant,

-against-

MOLINA,

Respondent.

NO. 52

20 Eagle Street
Albany, New York
September 10, 2025

Before:

CHIEF JUDGE ROWAN D. WILSON
ASSOCIATE JUDGE JENNY RIVERA
ASSOCIATE JUDGE MICHAEL J. GARCIA
ASSOCIATE JUDGE MADELINE SINGAS
ASSOCIATE JUDGE ANTHONY CANNATARO
ASSOCIATE JUDGE SHIRLEY TROUTMAN
ASSOCIATE JUDGE CAITLIN J. HALLIGAN

Appearances:

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Chrishanda Sassman-Reynolds
Official court Transcriber

1 CHIEF JUDGE WILSON: Thank you. Next case on the
2 calendar is People ex rel Barta v. Molina.

3 MR. BARTA: Good afternoon. Brooklyn Defender
4 Services Queens, formerly Queens Defenders, by Peter Barta
5 for appellant Shyhied Gibson. I'm joined by my cocounsel,
6 Matthew Thomas.

7 Requesting two minutes for rebuttal, please?

8 CHIEF JUDGE WILSON: Yes.

9 MR. BARTA: May it please the court.

10 From its onset and for decades, CPL 30.30(2)(a)
11 has stood for the proposition that the defendant is
12 entitled to release on her own recognizance if the
13 prosecution is not ready for trial within ninety days.

14 Respondents ask that this court should change the
15 unbroken line of jurisprudence and allow such a defendant
16 not to be released on their own recognizance - - -
17 recognizance but instead placed on electronic monitoring.

18 JUDGE SINGAS: All right. I think I know - - - I
19 think you know what we're going to ask. Is it moot?

20 MR. BARTA: I don't believe it necessarily is.
21 The question of whether Mr. Gibson could be held in jail
22 while awaiting electronic monitoring was live when argued
23 before the Appellate Division and when this court granted
24 leave. And the issue was litigated and decided by the
25 Appellate Division below. The Appellate Division ruled

1 that the question of whether Mr. Gibson was entitled to
2 release while awaiting electronic monitoring was moot
3 because he had been released.

4 But the remaining question, Mr. Gibson was on
5 electronic monitoring when we were in front of the
6 Appellate Division, and was on electronic monitor for nine
7 months after the court ruled that he was entitled to
8 release. And the Appellate Division ruled that our
9 arguments were - - -

10 JUDGE CANNATARO: Is he on electronic monitoring
11 now? I'm sorry. Over here.

12 MR. BARTA: He is currently serving a sentence in
13 state prison.

14 JUDGE CANNATARO: Not - - - okay. So there's
15 obviously. So what relief could we give him? And this
16 goes obviously to the mootness question.

17 MR. BARTA: I'm asking that this court rule that
18 electronic monitoring is not a just and fair - - -

19 JUDGE CANNATARO: How do - - -

20 MR. BARTA: - - - just and reasonable form of
21 release under 3030.2(a).

22 JUDGE CANNATARO: But he's not under that
23 condition.

24 MR. BARTA: No, he - - - he personally is not. I
25 don't think this court has any relief to provide to Mr.

1 Gibson personally.

2 JUDGE TROUTMAN: So it's moot as to him?

3 MR. BARTA: As to Mr. Gibson, yes. I do believe
4 that this falls comfortably under the mootness exception
5 raised - - - brought by this court in Hearst, in that it
6 meets all three factors of the mootness exception: it
7 implicates a significant issue of liberty; it is likely to
8 recur; and it will evade appellate review unless this court
9 takes it up.

10 JUDGE SINGAS: So you're asking us to apply the
11 mootness exception to reach the issue of whether electronic
12 monitoring was an appropriate condition to begin with; is
13 that right?

14 MR. BARTA: Yes. And as to whether the court
15 erred in holding Mr. Gibson in custody indefinitely until -
16 - -

17 JUDGE SINGAS: Yeah. But I think - - - I think
18 on that point, the people already conceded that that was an
19 illegal - - - we'll ask the People that that was illegal to
20 begin with.

21 But I have some concerns because I think during
22 the entire - - - the entirety of this case, defense counsel
23 acknowledged or sort of said, look, you can - - - there can
24 be electronic monitoring here. He said that routinely. He
25 never challenged that electronic monitoring was not proper

1 - - - a proper condition. Do you disagree with that?

2 MR. BARTA: I do. He was me. I can't blame
3 anything on anyone else. This has been my case from the
4 beginning.

5 JUDGE RIVERA: Aware of the underlying facts in
6 the record? Fabulous.

7 JUDGE SINGAS: Yes. Good.

8 MR. BARTA: The - - - the initial position I took
9 - - -

10 JUDGE SINGAS: Okay.

11 MR. BARTA: - - - when I argued that Mr. Gibson
12 was entitled to release, the first thing I said to the
13 court was, Your Honor has two choices. You can either
14 release my client on his own recognizance, or you can
15 release him on supervised release. And those are the two -
16 - - that would be on page 37 of the appendix, on page 12 of
17 that particular record. I believe my exact words were: "I
18 believe the court's options are to either release him on
19 his own recognizance or to release him on supervised
20 release."

21 JUDGE HALLIGAN: But didn't you also say - - -

22 JUDGE SINGAS: I have something that said - - -
23 I'm sorry. If I can just finish up this thought? You
24 said, "I would not object if the court were to release him,
25 and then we can do the electronic monitoring outside. I

1 have no objection to that. I don't know if that's
2 possible." And you said, "We have no objection to
3 electronic monitoring." I don't have the page cites for
4 that - - -

5 JUDGE CANNATARO: Forty - - -

6 JUDGE HALLIGAN: Forty-four.

7 JUDGE CANNATARO: - - - two and forty-four?

8 JUDGE SINGAS: And forty-two.

9 MR. BARTA: No. I absolutely said those things.
10 But I said those things after the court had already
11 declared it was putting Mr. Gibson on his - - - on
12 electronic monitoring.

13 The court's first position was that it was going
14 to set bail. And then we had discussion where I explained
15 that Mr. Gibson was indigent, that he would not be able to
16 make any amount of cash bail, and that if the only bail
17 that the court had the authority to set would be bail that
18 the defendant could afford. And because Mr. Gibson was, in
19 fact, indigent, that bail had to be zero.

20 Once we moved past the bail question, the court
21 said I can put him on electronic monitoring. I'm going to
22 put electronic monitoring.

23 JUDGE HALLIGAN: But how is saying we have - - -
24 over here - - - "we have no objection to electronic
25 monitoring." And I think also, "we certainly don't

1 disagree that the court has jurisdiction and authority to
2 order electronic monitoring." How does that keep the
3 question in the case before us?

4 MR. BARTA: Well, I believe that I was objecting
5 to the imposition of electronic monitoring. My subjective
6 belief in whether the court had the authority - - -

7 JUDGE HALLIGAN: Wait a minute, the statement,
8 "We have no objection"? Maybe I'm reading the - - - the
9 transcript incorrectly. But if that's correct, that seems
10 pretty straightforward.

11 MR. BARTA: Well - - -

12 JUDGE CANNATARO: It also seems to indicate that
13 this was the - - - that statement was the product of
14 communication because the continuation of it is, "We have
15 no objection to electronic monitoring, but as of ten
16 minutes ago, which is the last time I checked." So you - -
17 - you know, this is not just you making an argument. This
18 is the result of consultation with your client.

19 MR. BARTA: Well, I had not - - - Mr. Gibson was
20 not present for that conversation, was not present for any
21 of that record on either day. So I was unable to discuss
22 with him. So I certainly would say that Mr. Gibson himself
23 did not waive his right to be released. There was
24 certainly no colloquy with him. He was not present. He
25 did not send any documents the way we typically have a

1 client sign - - - waive a fundamental rights. So none of
2 that happened as to Mr. Gibson.

3 But again, any concession I made at that point
4 was after the court had already declared its intention. At
5 that point, I was trying to mitigate the consequences of
6 the court's decision to impose electronic monitoring.

7 If the court was going - - -

8 JUDGE HALLIGAN: Wouldn't you say - - -

9 JUDGE TROUTMAN: Is electronic monitoring itself
10 permissible?

11 MR. BARTA: I don't believe it is under - - -
12 under 30.30(2)(a). I don't believe that would be a just
13 and reasonable form of release because it's not a form of
14 release.

15 JUDGE HALLIGAN: But if that was your position,
16 why not say - - - you know, I want to preserve my objection
17 for the record but, and then move on?

18 MR. BARTA: I certainly could have phrased that
19 more eloquently. I don't disagree with that, and I
20 understand that that would have made a clearer record. But
21 at no point anywhere in the proceedings did we consent or
22 request electronic monitoring. We opposed it. The
23 position throughout the case was that Mr. Gibson was
24 entitled to be released 30.30(2)(a) and that electronic
25 monitoring was improper. There - - - there was - - -

1 JUDGE GARCIA: Counsel, to go back to mootness
2 for a second. We might apply the mootness exception and go
3 through the factors and weigh them differently. But isn't
4 our review here whether the Appellate Division abused its
5 discretion in finding this moot? That's what we're limited
6 to. Right?

7 MR. BARTA: Well, I believe the question before
8 the court is whether the court below, imposed a proper form
9 of release. And I don't believe that 3030.2(a) allows
10 that.

11 JUDGE GARCIA: But the court below found this was
12 moot. Right?

13 MR. BARTA: I'm sorry?

14 JUDGE GARCIA: They found it - - - part of this
15 at least, was moot. Right?

16 MR. BARTA: They found - - - the only part of the
17 decision that they found moot was that Mr. Gibson had
18 physically been released - - -

19 JUDGE GARCIA: Right.

20 MR. BARTA: - - - and placed on electronic
21 monitoring. As to all my other arguments, they ruled on
22 the merits that they - - - that those were not valid
23 arguments. So no, I don't think that the court, the
24 Appellate Division, found those arguments moot. I think
25 they were litigated and decided on the court below, and

1 we've appealed them because I think the Appellate Division
2 decided it wrongly.

3 JUDGE CANNATARO: So your view of the Appellate
4 Division argument is they ruled on the merits of the
5 question of whether electronic monitoring was a permissible
6 condition of release on the merits against you?

7 MR. BARTA: Yes.

8 JUDGE CANNATARO: But nonetheless said it was
9 moot?

10 MR. BARTA: Said it was moot - - - what the
11 specific language of the Appellate Division's decision is
12 that, "In light of Mr. Shyhied Gibson's release on October
13 19th, 2023, the petition was rendered academic to the
14 extent that it seeks his immediate release."

15 So the fact that he was not in a jail cell
16 anymore, to that extent, the court found it moot.

17 JUDGE SINGAS: Right. But I think there are two
18 mootness issues. It's that first one which we would look
19 at to see if there was an abuse of discretion by the
20 Appellate Division. And there's this second one, which
21 you're asking this court to invoke so that we can reach the
22 issue of whether electronic monitoring could be a - - -

23 MR. BARTA: I believe that's correct, yes.

24 JUDGE SINGAS: - - - a condition at all. That's
25 correct, right?

1 MR. BARTA: Yes.

2 JUDGE SINGAS: So we have two mootness issues.
3 So why, on the first one, do you think that the Appellate
4 Division abused its discretion? Recognizing that that's a
5 pretty significant statement to come from this court
6 concerning a mootness decision by the Appellate Division.

7 MR. BARTA: I don't believe that - - - I'm not
8 sure I understand the question. I don't believe the - - -
9 the Appellate Division was wrong. That the issue was moot
10 as to Mr. Gibson's physical release from a jail cell. He
11 was - - - what the - - - the timeline here is that the
12 court placed Mr. Gibson on electronic monitoring. I came
13 back to court a few days later and said Mr. Gibson is still
14 incarcerated. He has not been placed on electronic
15 monitoring, which is one of the problems with electronic
16 monitoring is that it is not an immediate process. The
17 defendant does not go from the jail cell to electronic
18 monitoring. Defendant goes from the jail cell to a
19 screening process by the sheriff's office, who may or may
20 not find him eligible for electronic monitoring. There's a
21 whole list of factors that the sheriff would have to find.

22 And in the meantime, the defendant is in this
23 limbo where he is waiting to see, am I going to be placed
24 on monitoring, am I not? And it's totally unclear what
25 happens if the court orders electronic monitoring and the

1 sheriff's office says no.

2 I mean, obviously, I think my position would be
3 that the defendant would then have to be released, but
4 there's really not much procedure set forth for any of
5 that.

6 JUDGE GARCIA: Isn't the Appellate Division
7 decision mainly on the 30.30 issue? Or am I - - -

8 MR. BARTA: I'm sorry?

9 JUDGE GARCIA: - - - reading that wrong?

10 MR. BARTA: No. I don't think anyone - - - I
11 don't think anyone in the Appellate Division took - - - had
12 any problem with the decision that Mr. Gibson was entitled
13 to release pursuant to CPL 30.30. There were fifteen or
14 sixteen pieces in the discovery - - -

15 JUDGE GARCIA: It seems like that's what they
16 addressed. Right? They addressed 30.30. Where do you
17 see, in the Appellate Division, them addressing anything
18 else?

19 MR. BARTA: Well, I mean, to be fair, the
20 Appellate Division's decision is very spare. But it does
21 say that the petitioner failed to establish entitlement to
22 any other relief sought, which I have to assume applies to
23 the other arguments we made in our brief. Because what
24 else would they apply to?

25 And I believe that the reason the electronic

1 monitoring is not a just and reasonable form of release on
2 the merits of the question is because it's different. It
3 is treated differently by the CPL in a variety of ways.
4 For one thing, the - - - the CPL requires a showing that no
5 other realistic nonmonetary condition - - -

6 JUDGE GARCIA: Sorry. I - - - just to go back to
7 this Appellate Division decision. The last line of the
8 Appellate Division decision is, "Accordingly, the
9 petitioner failed to demonstrate entitlement to relief
10 pursuant to 30.30(2)(a)."

11 JUDGE CANNATARO: I don't think that's - - - I
12 think you're looking at the wrong - - -

13 JUDGE RIVERA: That's not in my - - - that's not
14 in my - - -

15 MR. BARTA: I'm not seeing that in the decision.

16 JUDGE CANNATARO: That the - - -

17 JUDGE GARCIA: Wrong decision? Okay. Withdrawn.

18 MR. BARTA: I was nervous enough already.

19 JUDGE GARCIA: Okay.

20 JUDGE CANNATARO: See? It happens to everyone,
21 Counsel.

22 MR. BARTA: Fair enough.

23 So as I was saying, I - - - I - - - the CPL lays
24 out different conditions. Electronic monitoring is the
25 only nonmonetary condition under CPL 510.3(a). That it's

1 limited in both what defendants it can be applied to and
2 under what specific circumstances it can be applied. It -
3 - - no other realistic condition can suffice.

4 Defendant must be eligible, and they - - - he
5 must be charged with a felony, an eligible misdemeanor, or
6 have previously been convicted of a violent felony in the
7 past five years. It requires an individualistic
8 determination on the record or in writing that electronic
9 monitoring is, in fact, the only condition that the court
10 believes will suffice to have the client return.

11 It must be unobtrusive as possible. No other
12 condition has that kind of limitation. It can only be
13 administered by certain entities, which is specified in the
14 statute.

15 There must be a de novo review of electronic
16 monitoring every sixty days. Defendant must be apprised,
17 in writing, of both the conditions of his electronic
18 monitoring and the potential consequences of a violation.

19 And as we argued in our brief, the legislature
20 specifies that electronic monitoring is deemed custody for
21 the purposes of CPL 170.70 and 180.80, because it is a
22 different level of confinement than any other nonmonetary
23 condition.

24 I see that my light is on, but I'm able to answer
25 any questions. Seeing none. Thank you.



1 MS. IANNUZZI: Good afternoon. May it please the
2 court. ADA Amanda Iannuzzi, on behalf of Queens County
3 District Attorney Melinda Katz.

4 JUDGE GARCIA: Counsel, not to go back to this
5 decision, and hopefully, now the right one. But what was
6 decided at the Appellate Division?

7 MS. IANNUZZI: So the Appellate Division's
8 decision, yes, it was very brief, stated that the issue of
9 the defendant's continued incarceration was moot as the
10 defendant was no longer in custody, and that it would not
11 apply the exception to the mootness doctrine.

12 The final sentence of the decision is, "Moreover,
13 the petitioner failed to establish entitlement to any other
14 relief sought."

15 JUDGE CANNATARO: Do you think that's merits
16 determination on this electronic monitoring question?

17 MS. IANNUZZI: It could be one interpretation.
18 However, I would disagree that it is because the issue here
19 was that the Appellate Division in a habeas review was
20 limited to the record before the trial court. And on this
21 record, where the defendant affirmatively stated, "We do
22 not object to the imposition of electronic monitoring" and
23 acquiesced to the court's authority on that issue.

24 JUDGE CANNATARO: That wasn't before the court.

25 MS. IANNUZZI: It was not before the court.

1 JUDGE CANNATARO: Can I just ask you real
2 quickly? What are the contours of the concession that
3 you've made in this case? What was illegal?

4 MS. IANNUZZI: The issue that we conceded on is
5 the issue that was ultimately decided by the Appellate
6 Division, which was the issue of the court under
7 30.30(2)(a) despite ordering the release with the
8 electronic monitoring condition, nevertheless held the
9 defendant in while that condition was being implemented.

10 JUDGE CANNATARO: Which the court shouldn't have
11 done?

12 MS. IANNUZZI: Should not have done, because
13 under the language of 30.30, which is very explicitly
14 cared, does not speak to - - -

15 JUDGE HALLIGAN: And do you know whether that
16 practice has ceased?

17 MS. IANNUZZI: I'm unaware. I do know - - -

18 JUDGE HALLIGAN: Are you aware of any instances
19 where it has continued following your concession, and here?

20 MS. IANNUZZI: I'm unaware, Your Honor.

21 CHIEF JUDGE WILSON: So just so I'm clear, the
22 other relief - - - any other relief sought that the
23 appellate - - - sorry. The Appellate Division ruled, I
24 think, on the merits that the other relief sought was
25 meritless. Yes or no?

1 MS. IANNUZZI: If that is the - - - I mean, it's
2 - - - it's a very short sentence that could be interpreted
3 either way. Although here - - -

4 CHIEF JUDGE WILSON: What's the other way? Is it
5 possible that they're saying we're ruling on something that
6 isn't before us?

7 MS. IANNUZZI: It's - - - I mean, I - - - in my
8 opponent's view, yes, that is their ruling. But again - -
9 -

10 CHIEF JUDGE WILSON: They must have thought that
11 there was something in front of them that they needed to
12 say they were denying.

13 MS. IANNUZZI: Well, the issue - - -

14 CHIEF JUDGE WILSON: Fair?

15 MS. IANNUZZI: - - - at the time of the Appellate
16 Division, the issue of whether or not the - - - there was a
17 live issue in that the defendant was subject to the
18 monitor. So if the Appellate Division was accepting the
19 defendant's arguments concerning whether electronic
20 monitoring is release - - -

21 CHIEF JUDGE WILSON: Right. But what - - - I
22 mean, they think they were denying something on the merits.
23 Is that fair?

24 MS. IANNUZZI: I think that's a fair
25 interpretation. Yes.

1 CHIEF JUDGE WILSON: Is there some other way to
2 read that than they were denying something on the merits?

3 MS. IANNUZZI: I don't think there's any other
4 interpretation other than you can say that the defendant
5 did not establish entitlement to relief sought because his
6 argument in the first instance before the Appellate
7 Division concerning the propriety of the imposition of the
8 monitoring was not properly before them. So he - - - the
9 interpretation is - - -

10 CHIEF JUDGE WILSON: It usually will say
11 something like not preserved, though, instead of not
12 established the entitlement to, right?

13 MS. IANNUZZI: I'm sorry. Say that again?

14 CHIEF JUDGE WILSON: They would usually cast that
15 in terms of preservation or waiver or something like that
16 instead of not - - - hasn't established the entitlement to
17 the relief?

18 MS. IANNUZZI: It certainly could be written - -
19 -

20 CHIEF JUDGE WILSON: Okay.

21 MS. IANNUZZI: - - - a much better way.

22 CHIEF JUDGE WILSON: So other - - - well, a
23 different way, maybe?

24 MS. IANNUZZI: Or a different way, a more
25 explicit way, yes.

1 CHIEF JUDGE WILSON: Okay. Other than the merits
2 question of what - - - whether electronic monitoring is
3 permitted, is there something else they could have been
4 denying on the merits? Could it be, for example, the - - -
5 the issue you conceded later?

6 MS. IANNUZZI: I - - - given the way - - - the
7 way that it's written, Your Honor, I don't think there
8 could be any other issue because they did say they - - -
9 they ruled on the issue; that it's moot. Meaning the
10 continued incarceration and then not reviewing it - - -
11 deciding not to review it as an exception to the mootness
12 doctrine.

13 So - - - so based on this very short response,
14 I'm - - - I'm not sure there is anything else that they
15 could be talking about.

16 CHIEF JUDGE WILSON: Other than possibly the
17 merits of electronic monitoring?

18 MS. IANNUZZI: Correct.

19 CHIEF JUDGE WILSON: Okay.

20 MS. IANNUZZI: As to the merits of that issue - -
21 -

22 JUDGE RIVERA: I'm sorry. I've lost it now. Are
23 you saying that once they determined that that was moot and
24 they weren't going to invoke the mootness - - - exception
25 to the mootness doctrine, they went to the merits anyway?

1 MS. IANNUZZI: Well, I don't think - - - our - -
2 - our position is that I don't believe that they did,
3 because the - - - I think a fair interpretation of the
4 decision of saying the defendant has not showed entitlement
5 to relief sought is because there was no proper argument
6 for the court to review in the first instance.

7 The Appellate Division did not have de novo - - -
8 de novo review of this new argument that defendant was
9 raising for the very first time before the Appellate
10 Division in the writ.

11 JUDGE RIVERA: Which was what? Just - - -

12 MS. IANNUZZI: Which was whether electronic
13 monitoring was a permissible condition that the court could
14 impose on a defendant released pursuant to 30.30(2)(a). So
15 as to the merits of that question, it is a statutorily
16 authorized nonmonetary condition of release under section
17 500.10(3)(a)(j) of the Criminal Procedure Law.

18 And therefore, when looking at the language of
19 30.30(2)(a) at issue concerning, "release a defendant upon
20 such conditions as may be just and reasonable", that was a
21 condition that was available to the court and certainly
22 appropriate in this instance, given factors that were laid
23 out before the trial court concerning the seriousness of
24 the crime, the criminal - - - defendant's criminal history,
25 and incentive to flee, and so on.

1 CHIEF JUDGE WILSON: Is it possible that the
2 conditions attached to the electronic - - - assuming the
3 electronic monitoring is permitted - - - is it possible the
4 conditions could be so restrictive that it amounts to a
5 lack of release?

6 MS. IANNUZZI: No, Your Honor. Because there is
7 a very - - - there are a lot of fundamental differences
8 between, let's say, being incarcerated on Rikers Island and
9 being limited, although restricted movement and maybe bound
10 to one's own home, that the inmates of Rikers Island, for
11 example, do not have. So while a defendant under this most
12 restrictive example of a home-based electronic monitoring
13 still has the opportunity to eat and sleep and exercise
14 whenever they want, they can order takeout and watch TV and
15 have internet access and have access to a cell phone
16 without those conversations being recorded and monitored.

17 So in that sense, there are rights to privacy and
18 other freedoms that do not exist in the limited environment
19 of being, let's - - - for example, on Rikers Island. So
20 no, they would not be similar.

21 And as to what the legislature spoke in this
22 instance, in the language of 510.44(d), that is an
23 exception to this otherwise general rule that not
24 electronic monitoring in any of its forms is a nonmonetary
25 condition of release. It is considered by the legislature

1 confinement in two, and only two, circumstances, neither of
2 which are present here.

3 If there are no further questions, the people
4 will rest on our brief.

5 CHIEF JUDGE WILSON: Thank you.

6 MR. BARTA: I believe there's an important
7 distinction to draw between the phrase "released on her own
8 recognizance," which is what 30.30(2)(a) requires, albeit
9 under just and reasonable conditions, and the phrase
10 "released under nonmonetary conditions", which is referring
11 to a specific list of conditions outlined elsewhere in the
12 CPL. And 510.10 sub 3 specifically draws that contrast.

13 That statute says if someone is charged with a
14 nonbail eligible offense, that person must be released on
15 their own recognizance unless the court finds that that is
16 insufficient to guarantee the defendant's return to court
17 in which case the court can impose from the list of that
18 nonmonetary conditions. That very explicitly says - - -
19 has legislature saying that these are two separate things.

20 And the legislature chose not to add the phrase
21 "nonmonetary conditions" into 30.30(2)(a), which leaves us
22 with the time immemorial reading of that statute, which
23 requires the defendant's release.

24 Prior to 2019, a defendant in Mr. Gibson's
25 position would have been released on his own recognizance.

1 There would have been no other option. And what the
2 prosecution - - - what the respondents are asking this
3 court to find is that the legislature and reforms that were
4 designed to decrease pre-trial incarceration meant to
5 impose additional options of restriction on the defendant,
6 who until then had been entitled to release. And there's
7 just nothing in the legislative record to suggest that that
8 was the intention, and there was nothing in the language
9 that was purposely left out of 30.30(2)(a) that would have
10 suggested such an intention.

11 CHIEF JUDGE WILSON: Thank you.

12 (Court is adjourned)

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C E R T I F I C A T I O N

I, Chrishanda Sassman-Reynolds, certify that the foregoing transcript of proceedings in the Court of Appeals of People ex rel. Barta v. Molina, No. 52 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.



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