

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF NEW YORK PART TAP A

3 ----- :  
4 THE PEOPLE OF THE STATE OF NEW YORK : Indictment No.  
5 : 3916/18

6 -VS-

7 MARY SAUNDERS, : Bail Application  
8 DEFENDANT :

9 December 18, 2019  
10 100 Centre Street  
11 New York County

12 **B E F O R E:**

13 HONORABLE ELLEN BIBEN, JUSTICE

14 **A P P E A R A N C E S:**

15 CYRUS R. VANCE, JR., ESQ.,  
16 District Attorney, New York County  
17 One Hogan Place  
18 BY: JESSICA TROY, ESQ.,  
19 Assistant District Attorney

20 LEGAL AID SOCIETY,  
21 Attorneys for the defendant  
22 49 Thomas Street  
23 New York County  
24 BY: KATHLEEN HARDY, ESQ.,  
25 JANE SEMPEUR, ESQ.

SARAH MAXEY  
SENIOR COURT REPORTER

## PROCEEDINGS

1 THE COURT CLERK: No. 16 on the Tap A calendar,  
2 Indictment No. 3916 of 2018, Mary Saunders.

3 Appearances, please.

4 MS. TROY: For the People, Jessica Troy.

5 MS. HARDY: Kathleen Hardy, Legal Aid Society for  
6 Ms. Saunders. Also with....

7 MS. SAMPEUR: Jane Sampeur, S-A-M-P-E-U-R.

8 Good afternoon, everybody.

9 THE COURT: Good afternoon.

10 We put this on for another bail application,  
11 correct?

12 MS. HARDY: Yes.

13 THE COURT: All right.

14 Let me see counsel, and I'll hear you on that.

15 (Discussion held off the record.)

16 (Record resumed.)

17 THE COURT: **We had a conference at the bench. This**  
18 **matter is on for a bail application. The Court has reviewed**  
19 **counsel's submission as well as we discussed that at the**  
20 **bench, but let me first hear from counsel. As I said, I**  
21 **have reviewed your submission so you can just summarize your**  
22 **submission, what your request is.**

23 MS. HARDY: Yes, Judge. I will briefly summarize  
24 what I've already asked for in the previous submission as  
25 well as the first bail application that was made in this

## PROCEEDINGS

1 case.

2 Judge, we are requesting that the Court set  
3 monetary bail in the amount of \$12,000 cash with a  
4 personally secured bond of \$120,000 with ten percent cash  
5 down or an unsecured bond in any amount. And in addition to  
6 that we're asking for electronic monitoring as soon as it  
7 becomes available, surrender our client's passport, a  
8 curfew, a restriction on her travel and as well as a  
9 requirement that she be working.

10 Briefly, Judge, my client is not a flight risk.  
11 She turned herself in twice on this case. On the morning  
12 after this incident, she went to her job and got a message  
13 that the police were looking for her. She went directly to  
14 the police station and cooperated with the police. She was  
15 released. For ten days, she did not hear anything; and as  
16 soon as she was contacted again by the police she  
17 surrendered herself a second time.

18 A second reason that she's not a flight risk, your  
19 Honor, is her family. She has two children, Christopher and  
20 Shiann (phonetic). I'm sorry, Christian. I said  
21 Christopher. I apologize, Judge. She's involved with every  
22 facet of their lives. And in the video that we submitted to  
23 the Court there are three educators attesting to the fact  
24 that our client is very involved parent; that she is  
25 constantly at the school; that she has been involved in

## PROCEEDINGS

1 organizing after school classes on her own for Computer  
2 Science as well as other involvement. She also takes care  
3 of her mother and her sister.

4 Finally, Judge, she is employed and has been we've  
5 been told by her employer he intends to keep her job open  
6 for her.

7 I know the Court has looked at all of the letters  
8 that we have submitted to her.

9 THE COURT OFFICER: Yes, I have.

10 MS. HARDY: And, finally, Judge, in terms of the  
11 individualized determination of what is the appropriate bail  
12 in this case, our client and her family do have \$12,000 cash  
13 that they could make in this case.

14 So I would just close by saying that the idea that  
15 she would fail to return and flee abandoning her children or  
16 her stepmother is not consistent with the person who's  
17 described in this video, and the conditions that the defense  
18 has set forth are sufficient to ensure her return to  
19 court.crime.

20 THE COURT: All right. People.

21 MS. TROY: Your Honor, I'm going to ask that the  
22 bail that was put in place at the last bail hearing by  
23 Judge Ward in the amount of \$250,000 cash be maintained. We  
24 also request, your Honor, to set a \$500,000 insurance  
25 company bond or \$750,000 partially secured surety bond.

## PROCEEDINGS

1           Your Honor, we do not dispute that Ms. Saunders has  
2 not get a criminal record at this time. We do not dispute  
3 that she hasn't been in trouble or that she's been employed  
4 or that she has a family.

5           Judge, it is not a minor point, however, that she  
6 was involved in a gang assault and a brutal murder. While  
7 she's facing 25 years to life on the murder and even if  
8 she's only convicted of gang assault, she's still facing  
9 five to 25 on that. This is an extremely brutal, very  
10 serious crime. And as your Honor is aware it's all captured  
11 on video. Judge, we feel this is a strong case, and that  
12 the individual's exposure is very significant. And that as  
13 a result of that she poses a flight risk.

14           Your Honor, I understand that the video and the  
15 letters that were written on Ms. Saunders' behalf are  
16 compelling, but at the same time the People have to remain  
17 cognizant of the flight risk that's presented here simply  
18 because of how serious a case this is and what this  
19 individual is facing.

20           And, Judge, you know, I would just point out that  
21 in the video which I know your Honor reviewed Ms. Saunders  
22 is clearly on this video. She's clearly part of the  
23 incidents that lead up to this gang assault. Her brother is  
24 very clearly brandishing a weapon. It's very clear on the  
25 video that he repeatedly stabbed the decedent in this case.

## PROCEEDINGS

1 The decedent was stabbed 11 times. And for all of that  
2 Ms. Saunders very clearly participates, punches and kicks  
3 the victim, and as the victim is trying to flee and escape  
4 the situation she's running after him and tries to catch  
5 him, continues to chase him across --

6 THE COURT: I've seen the video.

7 MS. TROY: -- the street.

8 So, your Honor, we strongly object to any bail  
9 being set that's lower than the \$250,000 cash the Judge has  
10 already set.

11 THE COURT: We've conferenced this case. It's been  
12 submissions on this case which the Court has reviewed, and  
13 the Court must do an individualized determination under the  
14 rubric of the new law because the next adjournment would be  
15 after the effective date of that law. Counsel is correct.  
16 It's a different analysis under the new law or the restraint  
17 following that analysis.

18 The People are correct. The crime is a very  
19 serious crime, and the video is actually one of the clearest  
20 videos I've seen. It's a compelling video, and it does show  
21 Ms. Saunders' involvement. It's serious. And her exposure  
22 as a result of that is serious, and that is a factor that  
23 the Court can consider.

24 On the other hand, the Court must also consider her  
25 history and her activity. And this is her first arrest, and

## PROCEEDINGS

1 she as a family. The Court is very compelled that there are  
2 very significant, collateral consequences to a minor and  
3 slightly older child. There's disruption in both their  
4 education as a result of this tension, and that is  
5 concerning to the Court and I think a factor that the Court  
6 can and should consider. It also goes to the risk of flight  
7 to avoid prosecution.

8 So for those and other reasons based on the record  
9 presented to the Court the Court will modify the bail. This  
10 is a qualifying offense, and a very serious offense; but  
11 bail will be set in the amount of \$120,000 insurance company  
12 bond, \$120,000 personally secured surety bond with a ten  
13 percent collateral, two financially responsible obligors,  
14 and a 72-hour surety order with respect to that surety bond  
15 or a \$25,000 cash alternative. Those are the three forms of  
16 bail.

17 In addition, the Court will set certain  
18 non-monetary conditions that the Court finds unnecessary to  
19 ensure her return and also part of the least restrictive  
20 alternative which, of course, is the analysis. There will  
21 be a 9:00 p.m. curfew unless there is a work or  
22 school-related event that requires altering that curfew, and  
23 that could be done on permission of the Court. She's not to  
24 travel outside of New York City again except on permission  
25 of the Court, and that permission will be granted on an

## PROCEEDINGS

1 as-needed basis. But it must be compelling work or  
2 family-related reason, and it must only be on prior  
3 permission from the Court. And she must surrender her  
4 passport. It should be surrendered to the People during the  
5 pendency of this case.

6 And counsel represented that she can resume her  
7 employment. There's one of the letters that's from one of  
8 the managers I think. So that would be an additional  
9 condition that she maintains that or some type of employment  
10 while she's out.

11 Anything further? What is the next date, People?

12 MS. TROY: Judge, we have a DNA report, and I have  
13 requested file to get it over to the defense. Judge, I  
14 think it would be best for all of us to put this on for a  
15 control date.

16 THE COURT: Another control date in January.  
17 January 15th for control.

18 \* \* \* \* \*

**CERTIFIED TO BE A TRUE AND  
ACCURATE TRANSCRIPT OF THE  
PROCEEDINGS.**

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20  
21 **SARAH MAXEY**  
22 **SENIOR COURT REPORTER**  
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