

SAN FRANCISCO PUBLIC DEFENDER

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***** PRESS RELEASE *****

SF MAN'S CASE CHALLENGES MONEY BAIL

Retiree accused of stealing \$5 and cologne remains jailed on \$350,000 bond

San Francisco— A San Francisco senior citizen is poised to strike a blow against the money bail system, with the state appeals court ordering the California Attorney General to explain why the indigent man should continue to languish behind bars, San Francisco Public Defender Jeff Adachi announced today.

Kenneth Humphrey, a 64-year-old retired shipyard worker, has remained in San Francisco County Jail since his May 23 arrest, unable to post bail. Humphrey, who is accused of following an elderly neighbor into his residential hotel room and stealing \$5 and a bottle of cologne, faced \$600,000 bail. A judge later reduced his bail to \$350,000, but the price of his freedom remains too high.

Indicating it may take on the issue of money bail in California, the First Appellate District of the California Court of Appeal on Sept. 1 ordered the state Attorney General to show cause why Humphrey should not be released.

The order was in response to a challenge filed by the San Francisco Public Defender and the nonprofit Civil Rights Corps on Humphrey's behalf. Attorneys argued that in setting bond beyond Humphrey's means without considering his ability to pay or nonmonetary alternatives, the judge violated the 14th Amendment's guarantees of equal protection and due process.

Prosecutors insisted on money bail in Humphrey's case despite his indigence, his acceptance letter to an addiction facility for seniors, his ties to the community, and his law-abiding life for 14 years before the arrest.

Humphrey, who is African American, is facing charges of first degree residential burglary, elder abuse and theft. If convicted in the three strikes case, he could die in prison. A comprehensive [review by the Quattrone Center](#) for the Fair Administration of justice released in June found people of color in San Francisco are booked on comparatively more serious charges than whites suspected of the same crimes. The booking charges create a ripple effect that follows defendants through the justice system and results in more jail time and more serious convictions for African Americans.

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Bayview Magic
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MoMagic
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“This case was outrageously overcharged from the beginning,” Adachi said. “To add insult to injury, Mr. Humphrey has been kept behind bars without any consideration of releasing him on pretrial supervision. It is fundamentally unfair to lock people up solely because they are too poor to buy their freedom.”

Chesa Boudin, a deputy public defender in San Francisco who serves on the board of the Civil Rights Corps, said pretrial detention of presumptively innocent defendants is only permissible if a judge finds, based on clear and convincing evidence, that their release would result in great bodily harm to another person. Instead of making those findings, judges regularly violate due process and discriminate against the poor by setting high money bail to ensure that the poor won’t be released even when they pose no serious danger to the public.

“Instead of making findings based on evidence, judges use access to money to determine who stays in jail and who is released. This system has nothing to do with public safety, because it allows dangerous rich people to buy their freedom while incarcerating poor people who pose little or no risk,” Boudin said.

Humphrey’s case could have far-reaching consequences. If the appellate court rules in his favor, it would abolish the practice of using high money bail to detain poor people without giving them detention hearings, as required by the Constitution.

Humphrey’s petition can be found [here](#).

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