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November 9, 2022

**RQ-0484-KP**  
**FILE# ML-49194-22**  
**I.D.# 49194**

The Honorable Ken Paxton  
Texas Attorney General  
Attention: Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

Re: Request for Opinion concerning a Magistrate's Authority, if any, to Deny Bail Following Designation under Art. 17.027(a)(1), Code of Criminal Procedure

Dear Opinion Committee:

Art. 17.027(a)(1), Code of Criminal Procedure, provides that "Notwithstanding any other law . . . if a defendant is charged with committing an offense punishable as a felony while released on bail in a pending case for another offense punishable as a felony and the subsequent offense was committed in the same county as the previous offense, the defendant may be released on bail only by: (A) the court before whom the case for the previous offense is pending; or (B) another court designated in writing by the court described by Paragraph (A)."

If an indictment has been filed for the first offense, then a person charged with a subsequent felony in the same county may be released on bail only by the district court in which the first offense is pending or a court designated in writing by the district court. In practice the "court designated in writing" by the district court may be a justice of the peace serving as a magistrate under Art. 2.09, Code of Criminal Procedure.

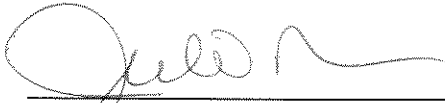
Under Art. 1, Section 11a(a)(2) of the Texas Constitution, a district judge may deny bail to a person accused of a new felony while released on bail for a previous felony for which he has been indicted.

Therefore, if the district court considered bail under Section 17.027(a)(1)(A) for a person charged with a second felony in the same county while released on bail for a prior felony, the district court could deny bail under the Texas Constitution.

Our question is whether another court designated in writing by a district court to consider bail under Section 17.027(a)(1)(B), including a justice of the peace acting as a magistrate, may also deny bail or is denial of bail limited to the district court even if the district court has designated another court to set bail?

Thank you for your consideration of and assistance in addressing this issue.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Julie Renken", written over a horizontal line.

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