

The South Carolina Court of Appeals

The State, Respondent,

v.

Richard Lewis, Appellant.

Appellate Case No. 2011-187128

ORDER

Appellant appealed his criminal conviction of aiding and abetting homicide by child abuse, and on May 15, 2013, this court reversed his conviction. *State v. Lewis*, 403 S.C. 345, 743 S.E.2d 124 (Ct. App. 2013). We denied the State's petition for rehearing on June 20, 2013. Appellant now moves to be admitted to bail pending any further appeal by the State to the supreme court. We grant the motion with the conditions set forth below.

Section 18-1-90 of the South Carolina Code (Supp. 2012) provides that "[b]ail may be allowed to the defendant in all cases in which the appeal is from the trial, conviction, or sentence for a criminal offense." Subsection 14-8-200(a) (Supp. 2012) provides that "[t]he court [of appeals] has the same authority to . . . grant petitions for bail as the [s]upreme [c]ourt would have in a similar case." This court has authority to grant bail pursuant to these sections after reversing a defendant's conviction. *See In re Michael H.*, 360 S.C. 540, 552-53, 602 S.E.2d 729, 735-36 (2002) (affirming this court's decision to grant bail after reversal and remand for a new trial).

Appellant attached an affidavit from Daniel Hepburn, the victim's father. Daniel voluntarily supported Appellant's motion for an appeal bond in this matter and stated he did not believe Appellant is a danger to the community. In granting bail, we have considered this court's determination that no

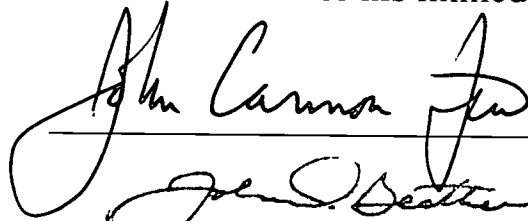
evidence supported Appellant's conviction, the record of Appellant's trial, the arguments made by Appellant and the State, Daniel's affidavit, and other factors we are required to consider. See S.C. Code Ann. § 17-15-30 (Supp. 2012) (listing factors to be considered in granting bail); *In re Michael H.*, 360 S.C. at 553, 602 S.E.2d at 736 (listing "factors to be considered in admitting a person to bail pending appeal"). The State did not ask for any specific conditions of release.


Appellant may be released if he meets the following conditions:

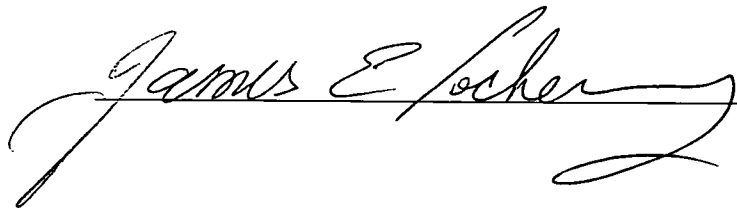
- (1) Appellant must execute a surety appearance bond in the amount of \$25,000.00, to be approved and accepted by the Laurens County clerk of court. Deposit of a cash percentage in lieu of bond pursuant to section 17-15-15 of the South Carolina Code (2003) will not be permitted.
- (2) Appellant must immediately surrender to the Laurens County sheriff upon any order of the circuit court, this court, or the supreme court.
- (3) Appellant may have no contact whatsoever with any member of the victim's family.
- (4) Appellant must notify this court's clerk of court and the Laurens County clerk of court of his current address and any changes in his address.
- (5) Appellant will not depart the State of South Carolina without the permission of this Court. S.C. Code Ann. §17-15-20(A) (Supp. 2012).
- (6) Appellant will be of good behavior toward all the citizens of this State. *Id.*

Either party may petition this court to amend the conditions set forth above. See *In re Michael H.*, 360 S.C. at 552, 602 S.E.2d at 735 (stating "the Court of Appeals retains jurisdiction until [the supreme court] grants or denies a petition for certiorari" (citing Rule 221(b), SCACR)). This order no longer applies after remittitur is sent down pursuant to Rule 221, SCACR.

The circuit solicitor or attorney general may bring alleged violations of this order before the circuit court or this court. A finding by either court of a violation of this order will subject the Appellant to a possible forfeiture of the appearance bond and the issuance of a warrant for his immediate arrest.


_____ C. J.


_____ J.


_____ J.

Columbia, South Carolina

cc:

C. Rauch Wise

Salley W. Elliott

Frank R. Addy, Jr.

FILED

17 July 2013