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May 06 2024

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Writ of Certiorari to the Greenville County Court of Common Pleas
The Honorable G.D. Morgan, Jr., Circuit Court Judge

JAMES MICHAEL JOHNSON, #340206,Respondent,
v.
STATE OF SOUTH CAROLINA,Petitioner.

Appellate Case No. 2023-001191

MOTION FOR APPEAL BOND

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Counsel for Respondent

NOW INTO COURT COMES THE RESPONDENT, who pursuant to Rule 243(k) SCACR, moves this Court to grant the Respondent bond pending the outcome of the appeal.

The present case presents an exceptional situation supporting the issuance of bond. The Respondent prevailed in his post-conviction relief action based on substantial evidence showing that he could not have been present at the scene of the murders as alleged in the State's case. The circuit court's decision is based on exculpatory evidence it found to be credible. While the State attempts to argue that the circuit court's ruling was based on an error of law, its argument boils down to nothing more than an attempt to have this Court disregard the circuit court's determinations as to credibility and the resulting findings of fact. A review of the State's Questions Presented shows clearly that the State is asking this Court to revisit the credibility of witnesses and cell phone records that show the Respondent was not at the scene of the murders as alleged in the State's case.

This Court has repeatedly said when it reviews post-conviction relief cases it accepts the circuit court's determination of credibility and findings of fact. " 'Any evidence' of probative value to support the court's finding of facts is sufficient to uphold those findings on appeal." *Griffin v. Warden*, 277 S.C. 288, 286 S.E.2d 145 (1982), cert. denied, --- U.S. ----, 103 S. Ct. 255, 74 L.Ed.2d 199 (1982)." *Sanders v. State*, 314 S.E.2d 319, 281 S.C. 53 (S.C. 1984). "Our standard of review in PCR cases depends on the specific issue before us. We defer to a PCR court's findings of fact and will uphold them if there is evidence in the record to support them. We review questions of law de novo, with no deference to trial courts." *Smalls v. State*, 422 S.C. 174, 180-81, 810 S.E.2d 836, 839 (2018) (citations omitted). A review of the circuit court's Order Granting Post-Conviction Relief shows that the court detailed extensive facts on which its

decision is based. Given the standard of review the likely outcome of the case is that the decision of the circuit court will be affirmed.

In addition to prevailing on appeal this Court may consider the character and circumstances of the Respondent. During his incarceration of over eight years the Respondent has been an exemplary inmate. While incarcerated Respondent has continuously attended classes to better himself. To date Respondent has received credit for numerous classes, many of which are college level. Respondent grew up in Greenville County South Carolina and has no significant ties elsewhere. He intends to reside with his mother in Greenville County if released on bond. Respondent therefore moves this Court to exercise its discretion and grant an appeal bond pending the Court's decision in this case.

Respectfully submitted,

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April 29, 2024.