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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

Certiorari to the Court of Appeals

The Honorable D. Garrison Hill, Trial Judge
The Honorable Alex Kinlaw, Jr., Post-Conviction Relief Judge

Appellate Case No. 2025-001072

JERALD D. GASKINS, JR.,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA

PETITIONER.

**RETURN IN OPPOSITION TO
MOTION FOR BOND PENDING APPEAL**

The State, through its undersigned counsel, would respectfully show this Court the following:

I.

On June 9, 2025, the State filed a Petition for Writ of Certiorari in this Court asking for review of the Court of Appeals' grant of relief subsequent to its review of the PCR court's denial of relief. Gaskins filed the Return to the Petition on July 7, 2025. This Court granted certiorari review on October 21, 2025, and ordered that the parties proceed with briefing pursuant to Rule 242(i), SCACR. On November 13, 2025, Gaskins filed a Motion for Bond Pending Appeal asking

that this Court grant him bail pending the final decision of this Court. The State opposes Gaskins' request for bond and submits this Return in response.

II.

Gaskins's SCDC records indicate the "current offenses" he is serving time for are two counts of lewd act on a child under 16 and two counts of second-degree criminal sexual conduct with a minor. Gaskins is currently serving an aggregate sentence of 20 years following his convictions.

III.

During its April of 2013 term, the Greenville County Grand Jury indicted Gaskins for four counts of second-degree criminal sexual conduct with a minor and two counts of committing a lewd act upon a child. Following a jury trial, Gaskins was convicted as indicted and sentenced to imprisonment for twenty (20) years for each count of second-degree criminal sexual conduct with a minor, fifteen (15) years for one of the counts of committing a lewd act, and five (5) years for the remaining count of committing a lewd act. The five (5) year sentence was ordered to be served consecutively to the others, and to be served first; the other sentences are all to be served concurrently. Gaskins subsequently appealed.

On April 19, 2017, Gaskins's convictions and sentences were affirmed in an unpublished *per curiam* opinion. *State v. Gaskins*, Op. No, 2017-UP-166 (S.C. Ct. App. filed April 19, 2017). On September 14, 2017, Gaskins initiated a post-conviction relief action challenging his convictions. Following an evidentiary hearing on October 24, 2018, the PCR Court denied relief and subsequently denied Gaskins's motion to alter or amend the judgment. Gaskins then initiated an appeal of the denial of his application.

On February 5, 2025, the Court of Appeals affirmed in part and reversed in part the PCR Court's denial of Gaskin's application for post-conviction relief. The Court of Appeals found that Gaskins suffered prejudice from trial counsel's deficient performance and remanded for a new trial. On February 20, 2025, the State filed the Petition for Rehearing which was denied on May 2, 2025. Gaskins filed a Motion for Bond Pending Appeal requesting that the Court of Appeals set a reasonable bond pending the final ruling of the appellate courts. The State filed a Return opposing the motion, and Gaskins filed a reply. On May 2, 2025, the Court of Appeals denied Gaskins' request for bail pending further appellate review.

IV.

Pursuant to South Carolina's appellate court rules, a post-conviction relief applicant "may" be admitted to bail during the pendency of an appeal of a trial court order by either the applicant or the State. Rule 243(k), SCACR. Importantly though, an applicant has no right to an appeal bond, and a court will only issue one in an "exceptional" case. *See id.* ("The authority to grant bail will be exercised with caution and only in exceptional cases."); *Nichols v. Patterson*, 202 S.C. 352, ___, 25 S.E.2d 155, 156 (1943) (instructing the allowance of bail after a conviction is *not* a matter of right).

In cases which an applicant was originally sentenced to a term of imprisonment exceeding ten years, South Carolina's appellate courts alone have discretion to decide whether an appeal bond should be issued. Rule 243(k), SCACR. When deciding whether to exercise that discretion, an appellate court should consider the following factors: (1) the probability of success on appeal; (2) the nature of the relief the applicant will receive if successful in his or her case; (3) the seriousness of the criminal offense committed; (4) the danger the applicant may pose to the community if he

or she is released; (5) the likelihood the applicant may flee if released; and (6) the character and circumstances of the applicant. *Id.*

V.

Respondent submits that in a factor analysis, the weight against bond is heavy. Certiorari review has been granted in this case. As to factor one, the State notes that the circuit court found Gaskins is not entitled to relief upon consideration of the record and testimony presented. The State submits that the circuit court made reasonable conclusions finding that trial counsel objected to the relevant issues, gave credence to trial counsel's testimony as to strategy, and appropriately refrained from making conclusions on conjecture and hindsight. Respondent submits based on the record and ruling, and a lack of prejudice, there is a justified probability that this Court's review may result in affirming the circuit court's denial of relief, thereby reversing the Court of Appeals' grant of a new trial.

As to factors two and five, Gaskins will receive a new trial if successful, and upon consideration of the circumstances of Gaskins's case, and the unease of his presence within the community, the likelihood of flight is not without concern. At trial, the victim was 17, a high school senior. Now, the victim is in her late twenties and likely able to articulately testify as to Gaskins's crimes. Further, according to the trial transcript, Gaskins has previously fled the State while in the midst of conflict with his ex-wife. Gaskins has not represented that he has strong familial ties to the community and upon a potential impending trial, Gaskins has an incentive to flee.

As to factor three, our legislature has demonstrated a strong preference for an appeal bond *not* to be granted in a case in which a convicted offender has been sentenced to a term of imprisonment exceeding ten years. *See* S.C. Code Ann. § 18-1-90 ("Bail may be allowed to the defendant in all cases in which the appeal is from the trial, conviction, or sentence for a criminal

offense. However, bail is not allowed when the defendant has been sentenced to death, life imprisonment, or imprisonment for more than ten years.”); *see also State v. Whitener*, 225 S.C. 244, 248, 81 S.E.2d 784, 786 (1954) (concluding—in a divided opinion—the Supreme Court could “grant bail, in its discretion, where the sentence exceeds ten years” despite the existence of a statutory provision prohibiting a grant of bail under such circumstances). Gaskins is serving a 20-year sentence for his crimes, and our legislature has deemed Gaskins’s crimes “violent” and “most serious.” *See* S.C. Code Ann. § 16-1-60 (identifying criminal sexual conduct with minors, first, second, and third degree as “violent” offenses); S.C. Code Ann. § 17-25-45(C)(1) (classifying criminal sexual conduct with minors as a “most serious” offense). As such, the seriousness of Gaskins’s crimes favors a denial of bond.

VI.

As to factors four and six, Gaskins contends that his lack of criminal convictions in Greenville County, and his abidance of bond conditions while his criminal case was pending support his motion for an appeal bond. However, Gaskins does have a criminal history - his convictions are adjudicated in the City of Traveler’s Rest. Gaskins pled guilty to domestic violence – 1st offense on June 3, 2004¹; to violating a court order of protection on February 11, 2013²; and to assault and battery 3rd degree on November 15, 2013³. *See* Public Index - Attachment 1. Notably, the protection order Gaskins violated was initiated by his ex-wife, now Rachel Waldrop.

¹<https://www2.greenvillemccounty.org/SCJD/PublicIndex/CaseDetails.aspx?County=23&CourtAgency=23201&Casenum=I545062&CaseType=C&HKey=74831131188976871038150748748661221131011036784651041086789904799891131221058166838156738947556889>

²<https://www2.greenvillemccounty.org/SCJD/PublicIndex/CaseDetails.aspx?County=23&CourtAgency=23201&Casenum=2012A2320100089&CaseType=C&HKey=7311484113841197211511954103437490110116471047057889910510012174105651077010647575585113701178478698552>

³<https://www2.greenvillemccounty.org/SCJD/PublicIndex/CaseDetails.aspx?County=23&CourtAgency=23201&Casenum=2013A2320100240&CaseType=C&HKey=4973836676541191111034355438312011811710884571145468101113831107251119121531081097943901148289120704989>

Consideration must be given to the Gaskins' disregard of a court order, particularly in regard to Ms. Waldrop.

Ms. Waldrop successfully petitioned to terminate Gaskins's parental rights to their two shared children, which Gaskins contested – while he was incarcerated. *See Waldrop v. Gaskins*, No. 2020-000368 (S.C. Ct. App. Feb. 5, 2021). Gaskins has a history, as identified by Ms. Waldrop, of habitually stalking and intimidating his ex-wife particularly while in the midst of their divorce and child custody battle. According to the trial transcript, Gaskins's defense theorized that Ms. Waldrop's testimony was unreliable because her and Gaskins were going through a contentious divorce, and she wanted sole custody of their children. It follows that Gaskins has an interest in influencing Ms. Waldrop's testimony considering that a new trial is the nature of the relief if successful.

Gaskins's reference to his lack of disciplinary actions while incarcerated has no value considering Gaskins appears to commit crimes against minors and women, using deceit and manipulation. While disciplinary actions and crimes committed while incarcerated are indicative of behavior upon release, the lack of infractions is not a reliable indicator as to Gaskins's behavior if released on bond with conditions.

It is not without concern that Gaskins will return to a community of which he is familiar with and have the opportunity to commit crimes of the same nature. Of particular concern is that the victim was a young teenager over the course of the abuse and according to trial testimony, Gaskins was able to gain access to her through befriending the victim's parents. In light thereof, the State asserts that Gaskins poses a danger to the community if released (and does not flee), particularly because Gaskins has a history of failing to abide by court orders.

In support of the denial of Gaskins's request for an appeal bond, the victim, the victim's mother, Gaskins's ex-wife – Ms. Waldrop, and Ms. Waldrop's daughter have requested their statements be presented to this Court for consideration. (Attachment 2). They strongly support the denial of bond.

VII.

For all the foregoing reasons, the collective circumstances of Gaskins's case—when properly considered—do not warrant the extraordinary relief of a grant of an appeal bond. Therefore, this Court should exercise the extreme caution warranted by the circumstances, deny Gaskins's motion for an appeal bond, and decline to grant release from custody to an offender who was convicted of multiple offenses our legislature has deemed “violent” and “most serious.” *See* S.C. Code Ann. § 16-1-60 (identifying criminal sexual conduct with minors, first, second, and third degree as “violent” offenses); S.C. Code Ann. § 17-25-45(C)(1) (classifying criminal sexual conduct with minors as a “most serious” offense).

The State maintains bond should be denied. If this Court should allow bond, however, the State advocates for the strongest restrictions. The State would ask this Court to order Gaskins to remain on home detention pursuant to the county home detention program during the pendency of the State's appeal, require Gaskins to submit to electronic monitoring at his own expense, preclude Gaskins from changing his address without prior court approval, direct Gaskins to surrender any passport he may have to the Greenville County Clerk of Court, and mandate Gaskins to refrain from applying for any new passports until his case is finally resolved.

WHEREFORE, the State prays this Court will deny Gaskins's Motion for Appeal Bond; and grant such other and further relief as the Court may deem just and proper.

[Signature Page to Follow]

Respectfully submitted,

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