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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

Post-Conviction Case No. 2019-CP-42-01605
Appellate Case No. 2023-001934

Stephanie Irene Greene, #359489, ... Petitioner,

v.

State of South Carolina, ... Respondent.

RETURN IN OPPOSITION TO RENEWED MOTION FOR BOND PENDING APPELLATE REVIEW

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

On November 19, 2025, Petitioner Stephanie Irene Greene (Greene) filed a renewed motion asking this Court to grant her an appeal bond during the pendency of her post-conviction relief (PCR) appeal. This return in opposition on behalf of the State now follows.

II.

On March 27-April 3, 2014, Greene proceeded to trial before the Honorable J. Derham Cole and a jury, pursuant to which she was found guilty of homicide by child abuse (2011-GS-42-5758 - count one), involuntary manslaughter (2011-GS-42-5758 - count two), and unlawful conduct towards a child (2011-GS-42-5758 - count three). She was sentenced to twenty (20) years' imprisonment for homicide by child abuse, five (5) years' concurrent imprisonment for involuntary manslaughter, and five (5) years' concurrent imprisonment for unlawful conduct towards a child. (App.p.1-2; p.675-p.693). Greene is currently being housed at Goodman Correctional Institution and has been housed either there or Leath Correctional Institution since June of 2018, except for periods when she was transported elsewhere for medical purposes or court appearances.

III.

Greene filed a timely notice of intent to appeal and in a published opinion filed May 23, 2018, our Supreme Court affirmed Greene's convictions for homicide by child abuse and unlawful conduct towards a child, but vacated the conviction for involuntary manslaughter. *State v. Greene*, 423 S.C. 263, 814 S.E.2d 496 (2018). (App.p.795-p.824).

IV.

Greene's convictions stemmed from the death of her infant child (Victim) at forty-six days old. Toxicology results showed lethal levels of morphine and the presence of other drugs in Victim's blood, liver, and brain. Greene had received prescriptions for numerous drugs including MS Contin, a form of slow-release morphine, without the prescribing doctor being made aware that Greene was pregnant with Victim and later, breastfeeding Victim. The Supreme Court summarized the State's causation theory and evidence at trial as follows:

> The State's causation theory was Appellant consumed excessive amounts of central nervous system depressants, principally morphine, while breastfeeding [Victim] and these drugs passed through Appellant's breast milk, resulting in [Victim]'s death. The evidence at trial revealed that Appellant took more morphine than her doctors prescribed. In addition, Appellant exclusively breastfed [Victim] until approximately one week before her death. Appellant told investigators that she began supplementing with formula due to her new blood pressure medication; however, Appellant also told investigators that she breastfed [Victim] extensively during the two nights immediately preceding [Victim]'s death. Thus, sufficient evidence was shown that Appellant took many drugs, including morphine, and breastfed [Victim].

Greene, 423 S.C. at 267, 814 S.E.2d at 498. In denying the allegation that the trial court should have granted a directed verdict on causation, the Supreme Court noted:

> In sum, the State presented evidence that Appellant continuously ingested substantial doses of morphine and other drugs while pregnant and breastfeeding; that morphine and other drugs can and do pass from a nursing mother to a breastfeeding child through breast milk; that infants cannot metabolize morphine and other drugs effectively; that [Victim] exhibited symptoms consistent with morphine toxicity; and that [Victim]'s death was caused by respiratory failure secondary to synergistic drug intoxication.

Id. at 275, 814 S.E.2d at 503. The Supreme Court also rejected the claim that insufficient evidence of the intent element of homicide by child abuse – extreme indifference – was presented to the jury. The Supreme Court explained:

> In this case, sufficient evidence was presented to show that Appellant was addicted to prescription drugs – including morphine – and Appellant knew she should use caution in taking morphine while pregnant or breastfeeding but elected to take it in excessive amounts without a doctor's supervision ensuring [Victim]'s safety.

Id. at 277, 814 S.E.2d at 503. It found:

> Throughout her pregnancy, Appellant failed to disclose that she was pregnant to the doctors prescribing morphine to her and failed to disclose that she was taking morphine to her prenatal doctors. In addition, she routinely omitted the fact that she was taking morphine from the paperwork that she submitted to her doctors. The testimony at trial was that at the very least, the drug should only be taken under a doctor's supervision so the baby's health could be monitored. Nevertheless, Appellant failed to disclose this important information to any of her doctors.

> The morphine addiction and concealment continued after [Victim]'s birth. . . . One of the State's experts, Dr. Eagerton, testified that the use of morphine during lactation is not recommended. . . . Dr. Kovacs testified that she would not have given Appellant the medication had she known about the pregnancy, and Dr. Bridges testified that no mention of morphine was made during Appellant's postpartum visit. Due to her nondisclosure, the record reveals that Appellant received an additional prescription for MS Contin and continued to breastfeed [Victim].

Id. at 278, 814 S.E.2d at 504. Finally, the Supreme Court noted that the morning of Victim's death, Greene omitted morphine from the list of her prescriptions, even when confronted with the pill bottle found in her bedroom. She later admitted she hid her pregnancy because she was afraid the doctors would take her off the morphine. *Id.* at 278-79, 814 S.E.2d at 504.

V.

Following her unsuccessful direct appeal, Greene filed an application seeking PCR. (App.p.474-p.485; p.1125-p.1132). An evidentiary hearing was held on September 19-20, 2022, at the Spartanburg County Courthouse before the Honorable J. Mark Hayes, II, featuring testimony from Dr. Anthony Scialli, Dr. Katherine Twombley, and trial counsel, C. Rauch Wise (App.p.1290-p.1584). On May 8, 2023, Judge Hayes issued a written order finding Greene had not established any constitutional violations or deprivations that would require granting the PCR application and, therefore, denied relief. (App.p.1762-p.1777).

Greene filed a motion to reconsider or amend and the State filed a return. (App.p.1778-p.1822). On July 18, 2023, a virtual hearing on the motion was heard before the PCR court and in an order dated November 17, 2023, and filed November 20, 2023, Judge Hayes denied and dismissed Greene's motion with prejudice. (App.p.1823-p.1837).

VI.

Greene timely served and filed a notice of intent to appeal with the Supreme Court. In an order dated July 11, 2024, after Green submitted a petition for a writ of certiorari and the State filed a return, the Supreme Court transferred the PCR appeal to this Court for a discretionary decision on whether certiorari should be granted.

VII.

On September 24, 2024, Greene filed a motion for bond pending appellate review and on October 2, 2024, the State filed a return. By Order filed October 15, 2024, this Court denied that motion.

VIII.

By Order dated September 25, 2025, this Court granted certiorari on four of the issues raised by Greene in this PCR appeal. On October 29, 2025, Greene filed a brief of petitioner and on November 3, 2025, she filed an amended brief. The State has not yet filed a brief in response. Greene now again seeks an order releasing her on bond pending resolution of her PCR appeal.

IX.

Pursuant to South Carolina's appellate court rules, a PCR 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. An applicant, however, 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—like Greene's—in 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; *see* Rule 243(l), SCACR ("If transferred, the Court of Appeals shall proceed with the case in the same manner as the Supreme Court would have done under this rule[.]"). 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. Rule 243(k), SCACR. However, 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."); *but see 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).

X.

In her motion seeking bail, Greene explains she is renewing her request for release "in light of the grant of certiorari" which, along with the lower court's findings of ineffective assistance of counsel, indicates a greater probability she will prevail on appeal. Greene then identifies several factors she contends weigh in favor of granting an appeal bond. Consistent with her explanation for renewing her motion, Greene first argues she has a reasonable

probability of success on appeal, particularly in regard to her allegation that the PCR court erred in denying relief on grounds that she failed to carry her burden of proving prejudice despite finding counsel was deficient for failing to investigate and present the alternative cause of renal failure. Second, Greene acknowledges the nature of the criminal offenses is serious but argues this should not weigh against her release because she has maintained her innocence and because there is substantial evidence that she lacked the requisite *mens rea* for the offenses. Third, Greene contends she would not pose a danger to the community if she is released, citing her lack of prior arrests or convictions for violent crimes and her good behavior during incarceration. Fourth, Greene alleges she is unlikely to flee if released as evidenced by her prior bond release, her desire to stay close to her family, and her health—suffering from ongoing fibromyalgia as well as a heart attack while incarcerated. Fifth and finally, Greene suggests the character and circumstances of her case as a whole support her release, again citing her lack of prior crimes and her good behavior during incarceration. While acknowledging some of the unique aspects of Greene's crimes, the State submits nothing about her character or circumstances rises to the level of making her case an exceptional one. To the contrary, many of the circumstances cited by Greene as well as the understandable desire of her family members to secure her release are the same circumstances shared by most convicts serving sentences in the Department of Corrections.

XI.

Looking to the first of the pertinent factors in Greene's case, the State does not believe that under the appropriate standard of review Greene is likely to prevail on what she acknowledges is the one appellate ground that is "most critical to this motion for bond." (Motion for Bail, p.5 fn2). In her amended brief of petitioner, Greene agrees with the PCR court's conclusion that trial counsel was deficient for failing to present a "highly persuasive" alternative

theory as to the cause of the child's death related to renal failure; however, she argues the PCR court erred in denying relief on grounds that she failed to carry her burden of proving prejudice from counsel's deficiency. She contends that: (1) where the jury heard testimony that morphine was dangerous for her to consume while breastfeeding and that it could transmit through her breast milk at a lethal level and (2) where the defense gave the jury no other explanation for the death, the jury was left with the question of "if not for the State's theory, then what?" remaining; therefore, presenting the alternative explanation of renal failure would have created a reasonable probability of changing the outcome of trial. (Amended Brief of Petitioner, p.14). Greene argues the evidence and testimony would have demonstrated that her actions did not manifest a mental state of "extreme indifference" because her baby's death was not a reasonably foreseeable result of her conduct. (Amended Brief of Petitioner, p.14-p.15). Yet, Greene's argument is belied by her own experts, who agreed: (1) the morphine level found in Victim was high enough to cause respiratory depression and within a reasonable degree of medical certainty it was possible, due to renal failure, for enough morphine to build up to kill a child (App.p.1406-p.1407), and (2) if a child has renal failure, enough morphine can ultimately build up in a child and cause his or her death when that morphine is coming through breast milk. (App.p.1463). In other words, any morphine level in Victim was necessarily caused by Greene's consumption of morphine and breastfeeding.

In support of her argument for a reversal, Greene raises a series of complaints about the PCR court's findings including that the PCR court: (1) incorrectly asserted that the "facts in the record" related to the elements of extreme indifference are "not contested" (Amended Brief of Petitioner, p.15); (2) failed to fully consider the inherent conflict between finding deficiency but not prejudice (Amended Brief of Petitioner, p.18); (3) glossed over the fact that the cause of the

morphine level was the renal failure, not her consumption of morphine or her breastfeeding (Amended Brief of Petitioner, p.18); (4) erroneously stated that renal failure was not supported by physical evidence and that the diagnosis of renal failure was ultimately based on hearsay reports of cold-like symptoms (Amended Brief of Petitioner, p.19); and (5) improperly relied on *State v. Phillips*, 416 S.C. 184, 785 S.E.2d 448 (2016) and *State v. Taylor*, 626 A.2d 201 (R.I. 1993). (Amended Brief of Petitioner, p.20). She contends these mistakes led the PCR court to erroneously conclude she suffered no prejudice from Counsel's failure to present renal failure as an alternative cause of death. (Amended Brief of Petitioner, p.14-p.21). Greene highlights some of these complaints in her motion for bail. The State disagrees with Greene's contentions about the renal failure theory and submits none of the complaints, taken alone or in combination, alters the propriety of the underlying decision. That decision was founded on the PCR court's proper conclusion that the jury's finding of "extreme indifference" was supported in the record and would not have been sufficiently undermined by the renal failure theory to alter confidence in the outcome of the trial.

Greene argues the PCR court failed to appreciate the strength of her expert testimony to counter the element of extreme indifference. This is based on the idea that Greene herself would be unaware of any dangers of taking MS Contin while breastfeeding and that some doctors, at least the experts testifying at the PCR hearing, might find it safe to prescribe morphine while a patient was breastfeeding a child. It is further premised on the contention that morphine is generally safe and only an unexpected event, renal failure, caused the buildup of morphine in Victim.

However, the proof of Greene's extreme indifference is rooted in her deliberate actions to hide her pregnancy and the birth of her child from the doctor prescribing her MS Contin and

Klonopin, and her actions to hide her consumption of MS Contin, Klonopin, and several other medications from her pediatrician. The doctor that should have made the decision as to whether MS Contin was safe for Greene to use while pregnant and later breastfeeding Victim was Dr. Kovacs. Greene hid her pregnancy and birth from Dr. Kovacs when obtaining the MS Contin prescription. She hid her use of MS Contin from Dr. Bridges, her pediatrician. *See Greene*, at 278, 814 S.E.2d at 504. In case Greene's lack of concern for Victim was in doubt, Victim had therapeutic levels of Klonopin in her blood even though the pill bottle with Klonopin warned: "'Do not use if pregnant or suspect you are pregnant or are breastfeeding.'" *Id.* at 263 n.5, 814 S.E.2d at 503 n.5. Greene obtained prescriptions for Klonopin from both Dr. Kooistra and Dr. Kovacs only five days apart from each other and about two weeks before Victim's death. The attempt to use two doctors years later to justify whatever internal calculus Greene might have applied to justify exposing Victim to these dangerous drugs fails to defeat the abundant evidence of Greene's extreme indifference.

As to the complaint about the PCR court stating that the facts related to the elements of extreme indifference are not contested, Greene inaccurately conflates underlying facts with legal conclusions. She acknowledges she "did not dispute the accuracy of the level of morphine measured in Victim's system identified in the toxicology report, that Greene consumed morphine, or that she was breastfeeding" but asserts she "disputed that these actions satisfied the mens reas of homicide by child abuse." But where the PCR court's finding was limited to the admitted facts, it was entirely accurate. Regarding such facts, on direct appeal the supreme court rejected the claim that insufficient evidence of extreme indifference was presented to the jury. It provided a detailed recitation of the facts presented at trial in support of its ruling, facts Greene argues were improperly relied upon by the PCR court. Yet these facts were taken directly from

the evidence at trial and certainly bear on any analysis of whether Greene was prejudiced by Counsel's failure to present the alternate theory. They were properly considered and relied upon in rendering a decision.

In addition to the facts recited by this Court, other evidence from trial included Dr. Kooistra publishing the medication guide for MS Contin that advises:

> Pregnant or planning to become pregnant. MS Contin may harm your baby, unborn baby. Tell your healthcare provider if you are breastfeeding. *MS Contin passes into breast milk and may harm your baby.* Tell your healthcare provider if you are taking prescription or over-the-counter medicines, vitamins or herbal supplements.

(App.p.310, lines 4-9) (emphasis added). Dr. Eagerton also published a portion of LactMed pertaining to the use of morphine, as follows: "Maternal use of oral narcotics during breastfeeding can cause infant drowsiness, central nervous system depression and even death." (App.p.479-p.480). Greene herself admitted she and her husband discussed the possibility Victim's death could be from the drugs she ingested. (App.p.374-p.376).

As to the complaint that the PCR court failed to fully consider the inherent conflict between its findings of deficiency and prejudice, the State submits no conflict exists for the detailed reasons set out by the PCR court. To the extent there is a conflict, it is solely because the PCR court should have found no deficiency in Counsel's performance in the first place, an alternative basis on which this Court should affirm.

As to the complaint that the PCR court glossed over the alleged fact that the cause of the morphine level was the renal failure, not Greene's consumption of morphine and breastfeeding, Greene's own experts agreed: (1) the morphine level found in Victim was high enough to cause respiratory depression and within a reasonable degree of medical certainty it was possible, due to renal failure, for enough morphine to build up to kill a child (App.p.1406-p.1407), and (2) if a

child has renal failure, enough morphine can ultimately build up in a child and cause his or her death when that morphine is coming through breast milk. (App.p.1463). While renal failure might impact the rate at which morphine levels could decline, it could never "cause" the morphine level itself. Indeed, any morphine level was necessarily caused by Greene's consumption of morphine and breastfeeding.

As to the complaints the PCR court erroneously stated the renal failure was not supported by physical evidence and that the order conflicts with what the court told State's counsel during the evidentiary hearing, those complaints are of no moment where the PCR court properly analyzed the impact of the alternative theory in the context of the overwhelming evidence of extreme indifference. Indeed, it was the concept that the postulated renal failure alone would have led to death absent the introduction of morphine by Greene that was not supported by physical evidence. Greene's experts could not opine to a reasonable degree of medical certainty that this was the case. (App.p.1406-p.1407; p.1463).

Relying on *Ryals v. State*, 439 S.C. 230, 886 S.E.2d 239 (Ct. App. 2023), Greene contends the PCR court misapplied its prejudice analysis in the instant case. The State disagrees. In *Ryals*, the defendant appeared in prison garb and counsel neither objected nor moved for a continuance until the defendant had street clothes. The PCR court found counsel's performance deficient but found no prejudice in light of overwhelming evidence of guilt. The Court of Appeals reversed, finding the PCR court did not compare the "impact of Ryal's forced appearance at trial in prison clothing against the strength of the State's case against him." *Id.* at 236-37, 886 S.E.2d at 242. However, in the present case, this is precisely what the PCR court did in its order of dismissal. It balanced the benefit of the experts' testimony with some of the shortcomings and dangers inherent in the experts' testimony, and then balanced that against the

State's evidence, including the considerable evidence of Greene's extreme indifference, the lack of challenge to the idea that all the morphine Victim consumed was through breast milk, and the unchallenged level of morphine found in Victim. Greene quotes language in *Ryals* suggesting that for evidence to be overwhelming such that it precludes a finding of prejudice, it must include something conclusive, such as a confession, DNA evidence demonstrating guilt, or a combination of physical and corroborating evidence so strong the *Strickland* standard cannot possibly be met. But Greene takes this language from *Ryals* too far. Under her argument, every circumstantial evidence case would *require* reversal if trial counsel was potentially deficient, a rule that would turn the *Strickland* standard on its head. Contrary to Greene's contention, the PCR court clearly contemplated the record as a whole in assessing whether Greene met her burden of proving prejudice.

As to the complaint that the PCR court erroneously relied on *Phillips* and *Taylor*, these cases shared close similarities and provided useful analysis and comparison on the issues of extreme indifference. Indeed, a person's knowing exposure of a child in the person's care to dangerous drugs outside a doctor's care may constitute extreme dangerousness. *Phillips*, 416 S.C. at 196, 785 S.E.2d at 454 (finding "[i]t is common knowledge that giving another person, particularly a toddler, drugs not prescribed to him is inherently dangerous"). "By any standard the delivery of a controlled substance to a child, not under the direction of a physician in regard to dosage, is an act that is inherently dangerous." *Taylor*, 626 A.2d at 202.

As in *Phillips*, Greene's actions were inherently dangerous, making Victim's death in this case reasonably foreseeable. Indeed, this Court's holding in the direct appeal remains true for this PCR: "In this case, sufficient evidence was presented to show that Appellant was addicted to prescription drugs – including morphine – and Appellant knew she should use caution in taking

morphine while pregnant or breastfeeding but elected to take it in excessive amounts without a doctor's supervision ensuring [Victim's] safety." *State v. Greene*, 423 S.C. 263, 277, 814 S.E.2d 496, 503 (2018).

In conclusion, in the instant case there is *unchallenged physical evidence* that Victim had a lethal level of morphine at the time of death at forty-six days old. Greene *confessed* she was addicted to morphine and lied to her doctors to avoid losing her prescription to morphine. No evidence was presented that the morphine in Victim came from any other source than Victim's breast milk. The record is simply replete with Greene's furtive behavior to maintain her access and consumption of opioids which included ensuring that Greene and Victim remained outside a knowledgeable doctor's care. Consistent with *Ryals*, the PCR court properly determined that Greene was not prejudiced by the alleged deficiency of Counsel. Her probability of success on appeal is low.

XII.

Similarly, for the reasons articulated in its return to petition for a writ of certiorari which is incorporated herein by reference, the State does not believe Greene is likely to prevail on appeal on the other issues she has elected to raise and for which this Court has now granted certiorari.

XIII.

Looking to the remaining factors identified as relevant to an appeal bond analysis, Greene's charge of homicide by child abuse is an incredibly serious offense, and the fact that a jury unanimously convicted her of that crime supports a conclusion she—in the judgment of her community—poses a legitimate danger to society. *See Nichols*, 202 S.C. at __, 25 S.E.2d at 155 ("[A]fter conviction the law presumes [a defendant] to be guilty."). Moreover, the seriousness of

Greene's crime should not be diminished by the fact no witness directly observed her excessive consumption of morphine while breastfeeding and inflicting the fatal injuries to her child, in light of the very nature of child abuse, which is ordinarily a secretive crime committed outside the view of potential witnesses. *See State v. Fletcher*, 379 S.C. 17, 27, 664 S.E.2d 480, 484-485 (2008) (Toal, C.J., dissenting) ("Child abuse differs from other types of crimes in several respects. Specifically, the crime of child abuse often occurs in secret, typically in the privacy of one's home. The abusive conduct is not usually confined to a single instance, but rather is a systematic pattern of violence progressively escalating and worsening over time. Child victims are often completely dependent upon the abuser, unable to defend themselves, and often too young to alert anyone to their horrendous plight or ask for help. It is also not uncommon for child abuse victims to be so young that they are incapable of offering testimony against the abuser.").

In regard to Greene's potential danger to the community, notwithstanding the fact she was convicted of a serious offense, Greene has engaged in an egregious act that suggests she does not possess a character or attitude warranting the extraordinary relief of being released on an appeal bond following the imposition of a twenty-year sentence. *See Nichols*, 202 S.C. at __, 25 S.E.2d at 156 (recognizing a defendant's character, reputation, and attitude toward society and government are relevant considerations when determining whether to grant an appeal bond to a convicted offender). Specifically, on the morning of Victim's death Greene omitted morphine from the list of her prescriptions, even when confronted with the pill bottle found in her bedroom during law enforcement's investigation. *Greene*, 423 S.C. at 278-79, 814 S.E.2d at 504. This is an act reflecting poorly on both Greene's character and her ability to conform her conduct to the requirements and expectations of the law.

In regard to flight risk, Greene's failure to flee while on bond prior to trial is of little value to the calculus of contemplating her release during appeal. *Prior* to her conviction, knowing she was proceeding to trial while represented by one of South Carolina's most competent, zealous, and respected criminal defense attorneys, Greene likely viewed conviction and incarceration as a rather remote eventuality. Now, *after* her conviction and experience with long-term incarceration, where she is facing significantly lower odds of success due to: (1) the denial of PCR by the trial court and (2) the appellate court's standard of review, there is a greater incentive for flight. Additionally, the significant national interest in this case and the push to overturn the will of the jury, as demonstrated by the June 4, 2024, submission of the "Brief of *Amici Curiae* The American College of Obstetricians and Gynecologists, Pregnancy Justice, and Time Served," suggests Greene may have access to extensive resources if released.

Finally, while Greene's physical health sounds poor based on the information she has provided, our legislature has generally taken a dim view of premising early release on relatively common medical conditions. For example, it elected to deny access to medical parole to offenders like Greene and to only permit access to medical furlough to a violent offender when such relief has been approved by those affected by the offender's crime, which strongly demonstrates our legislature does not believe defendants convicted of and sentenced for crimes like Greene's should be released from custody even when gravely ill. *See* S.C. Code Ann. § 24-3-210 (permitting the director of the Department of Corrections to "extend the limits of the place of confinement of a terminally ill inmate for an indefinite length of time when there is reasonable cause to believe that the inmate will honor his trust" but precluding the director from doing so for an offender convicted of a violent crime unless the solicitor, the arresting agency, *and* all

registered victims recommend in writing the offender be permitted to participate in the furlough program).

XIV.

For all the foregoing reasons, the collective circumstances of Greene'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 Greene's motion for an appeal bond, and decline to grant a release from custody to an offender who was convicted of surreptitiously obtaining and ingesting excessive amounts of morphine while breastfeeding, resulting in Victim's death, and was justifiably sentenced to spend twenty years in prison for that indefensible crime.

XV.

Finally, although the State firmly believes this Court should deny Greene's motion for an appeal bond, in the event it disagrees and determines Greene's case is so exceptional it warrants the grant of an appeal bond, this Court should impose reasonable bond conditions to protect the community and ensure Greene does not abscond. *Cf.* Rule 243(k), SCACR ("If bail is granted, the court may require the posting of a bond and impose other conditions."). Where Greene has been convicted by a jury of her peers of the "violent" and "most serious" offense of homicide by child abuse in connection to the death of an infant, this Court should—at a minimum—set bond in a dollar amount this Court believes will be sufficient to ensure compliance with all bond conditions, order Greene to remain on home detention during the pendency of the State's appeal, preclude Greene from leaving her residence for any purpose other than obtaining medical treatment or attending religious services, preclude Greene from living or staying at any residence in which a child resides, bar Greene from having any in-person contact with any children at any

location, require Greene to submit to electronic monitoring at her own expense, preclude Greene from changing her address without prior court approval, direct Greene to surrender any passport she may have to the Spartanburg County Clerk of Court, and mandate Greene refrain from applying for any new passports until her case is finally resolved. *See* S.C. Code Ann. § 16-1-60 (identifying homicide by child abuse as a "violent" crime); S.C. Code Ann. § 17-25-45(C)(1) (classifying homicide by child abuse as a "most serious" offense).

WHEREFORE, the State respectfully asks that this Court deny Greene's Renewed Motion for Appeal Bond and grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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Columbia, South Carolina
November 25, 2025

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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PROOF OF SERVICE

I, Susan Spencer, certify I have served the within Return in Opposition to Renewed Motion for Bond Pending Appellate Review on Petitioner by sending an electronic copy to Susannah Conyers Ross, Blake Terence Williams, John Francis Kuppens, Caroline Aline Warner, and Allison Krause Elder, Esquires via email to the addresses listed in AIS, and to Karen Thompson and Kelly Keglovits, Esquires to their U.S. mailing address at: Pregnancy Justice, 575 8th Avenue, New York, NY 10018.

I further certify all parties required by Rule to be served have been served. This 25th day of November, 2025.

Susan Spencer
Legal Assistant
Office of the Attorney General