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Sep 10 2026

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County

Honorable Mark J. Hayes, Circuit Court Judge

THE STATE,

PETITIONER,

V.

ANIJAH YARNELL,

RESPONDENT.

APPELLATE CASE NO. 2026-001715

PETITION TO VACATE BOND

Pursuant to Rule 240, SCACR, the undersigned counsel would petition this Court for an Order vacating Respondent's Bond Order (attached) and the conditions thereof pending the outcome of the state's appeal of his grant of his immunity per the Protections of Persons and Property Act under S.C. Code Ann. & 16-11-410-450 (2015). The undersigned counsel would present the following information in support of this petition.

I. Procedural History

Respondent was indicted at the June 2021 term of the Horry County Grand Jury for the offenses of murder and possession of a weapon during a violent crime. An immunity hearing was convened on November 14, 2022, before the Honorable Mark Hayes. Attorneys Morgan Martin

and Morgan O'Brian Martin represented Respondent at the hearing. Assistant Solicitors Nancy Livesay and Christopher Helms appeared on behalf of the state at the hearing. The immunity hearing concluded on November 16, 2022. On April 4, 2023, the trial court issued an Order granting Respondent's motion for immunity from prosecution pursuant to S.C. Code Ann. §16-11-450.

Appellant filed a timely notice of appeal. On June 3, 2026, the South Carolina Court of Appeals issued its unanimous, unpublished *per curiam* opinion affirming the circuit court's Order granting immunity from prosecution. On June 18, 2026, the state filed a Petition for Rehearing, which was denied by written Order on July 10, 2026 by the South Carolina Court of Appeals. The state filed its Petition for Writ of Certiorari to the Court of Appeals on August 25, 2026. The appeal is presently pending before this Court.

II. Legal Standard

Pursuant to S.C. Code Ann. § 18-1-90 “[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.” The statute does not allow an appeal bond to be issued to those defendants that have been sentence to death, life imprisonment, or imprisonment over ten years. Our Supreme Court stated in State v. Whitener, 225 S.C. 244, 248, 81 S.E.2d 784, 786 (1954),

This Court has the power to issue these writs and orders referred to in the Constitution. Those fundamental remedies and safeguards upon which each individual in our society has the right to rely must be preserved by the courts. Otherwise, these procedural rights embodied in our Constitution to insure the individual against oppression will become nullities.

This Court, the judicial body of last resort in our state system of jurisprudence, has the inherent power to set bond in any case. Every defendant sentenced to ten years or less has the right to bail pending appeal. This Court can grant bail, in its discretion, where the sentence exceeds ten years.

The Court of Appeals “has the same authority to issue writs of supersedeas, grant stays, and grant petitions for bail as the Supreme Court would have in a similar case.” S.C. Code Ann. § 14-8-200(a). In determining whether an individual should be granted bail on appeal, the appellate courts of this state consider “the probability of reversal, the nature of the crime, the possibility of escape, and the character and circumstances of the appellant.” In re Michael H., 360 S.C. 540, 553, 602 S.E.2d 729, 736 (2004).

Unlikelihood of Reversal on Appeal

The circuit court judge and the South Carolina Court of Appeals have concluded that Respondent is innocent as a matter of law and immune from prosecution on the charged offenses. Furthermore, the Court of Appeals’ decision demonstrates that appellate review of the circuit court is limited to an enormously deferential, “any evidence” review of the circuit court’s findings of facts. See State v Yarnell, Unpublished Opinion No 2026-UP-276 (Ct. App filed June 3, 2026). A circuit court abuses its discretion when its ruling is based on an error of law or, when grounded in factual findings, without evidentiary support. State v. Marshall, 428 S.C. 11, 832 S.E.2d 618 (Ct App. 2019). The circuit court’s factual findings in this case are supported by evidence and thus entitled to great deference. See also State v. Johnson, 413 S.C 458, 776 S.E.2d 367 (2015). Therefore, the probability that Respondent will prevail on appeal is high.

Nature of the Crimes

According to the circuit court and the appellate court, Respondent committed no crime at all. The circumstances of Respondent’s actions on May 14, 2020, demonstrated that he is not a danger to the community in any way. Respondent was charged with murder after he shot and killed the decedent. Respondent only shot the decedent after the decedent approached Respondent’s vehicle, made numerous threats, and attempted to enter Respondent’s vehicle, grab Respondent’s

firearm, and remove Respondent from his vehicle. R. 554-555, 560. At the time of this incident, decedent was under the influence of cocaine, in such quantities that an expert witness testified, to a reasonable degree of medical certainty, that the decedent was displaying some signs of aggression at the time of the incident. R. 153, l. 1 – p. 154, l. 20. It was only after the decedent made these “belligerent and aggressive” actions, R. 557, that Respondent presented his firearm. R. 554. This is a classic case of self-defense. Respondent believed that he was required to act as he did to preserve his own life, and the circuit court found that Respondent was in actual, imminent danger of sustaining death or serious bodily injury. R. 560. Therefore, Respondent acted as any reasonable man of ordinary firmness and courage would have acted under the same circumstances. The circumstances of Respondent’s actions do not establish that he is any more a threat to the community than any other individual.

No Evidence of Escape or Flight Risk

Respondent has been on bond for more than six years. Respondent’s bond was never revoked, and in fact a review of the public index indicates that the state never attempted to revoke Respondent’s bond. Further, Respondent has not been subject to electronic monitoring in more than three years, and he has never tried to escape. Respondent accepted his arrest, obeyed the conditions of bond, and properly fought his case in court. As a matter of law, Respondent has not committed a crime, and for the reasons detailed above it is unlikely that Respondent’s case will be tried. Respondent has shown no proclivity to escape, nor does he have any motive to do so.

Character and Circumstances of Respondent

The circumstances of this case demonstrate that Respondent should no longer be subjected to the conditions of his bond; because simply, he is as a matter of law, innocent. Two different courts have declared that he is immune from prosecution because his actions were legal

in self-defense. It is neither just nor equitable to require Respondent to continue to be under bond and its conditions when he has committed no crime. Further, Respondent does not have any significant criminal history.

WHEREFORE, based on the above information, the undersigned counsel would request that this Court grant the petition requesting an Order vacating Respondent's bond and the conditions thereof in the case.



Wanda H. Carter
Chief Appellate Defender

W. Chandler Norville
Appellant Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEYS FOR RESPONDENT

This 10th day of September, 2026

cc: W. Joseph Maye, Esquire
Morgan Martin, Esq.
Anijah Yarnell

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
STATE OF SOUTH CAROLINA
VS
ANIJAH YARNELL

IN THE COURT OF GENERAL SESSIONS
2020A2610400201 & 0202

ORDER FOR BAIL

This matter was brought before me on motion of attorney for the above named Defendant for the purposes of setting bail. It appears that the Defendant is charged with Possession of a Weapon During a Violent Crime and Murder.

After consideration of all attendant facts bail is hereby set in the amount of 75,000.00 surety Thousand surety on all charges with the following special conditions:

1. no contact, in any manner, with family of deceased
2. LIVE IN THE HOME with his mother at 1231 Winchester Court, Myrtle Beach, SC.
3. ^{AT} Home Detention except when at work, medical, legal OR court appointments
4. NO CONTACT with eye witnesses
5. If he is located by the custody of the Home Detention, he is not to be released if exceptions, he

IT IS HEREBY ORDERED that bail is set in the amount of

_____ Thousand Dollars on all charges with the above mentioned special conditions.

AND IT IS SO ORDERED.

immediately detained by law enforcement

Steven John, Presiding Judge
Steven John, Presiding Judge
Fifteenth Judicial Circuit

Conway, S.P.
Dated: 6-11-20

I SO MOVE:

L. Morgan Martin
L. Morgan Martin, Attorney
for Defendant

CLERK OF COURT
HORRY COUNTY, SC

2020 JUN 11 PM 12:55

FILED

STATE OF SOUTH CAROLINA
COUNTY OF **Horry**

IN THE COURT OF GENERAL SESSIONS

ORDER IN A CRIMINAL CASE
WARRANT(S) 2020A2610400201 & 2020A2610400202

INDICTMENT(S): 2021GS2602687 & 2021GS2602688

State of South Carolina

ANIJAH YARNELL
DEFENDANT(S)

This form order
submitted by:

Attorney for : ☐ State ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE

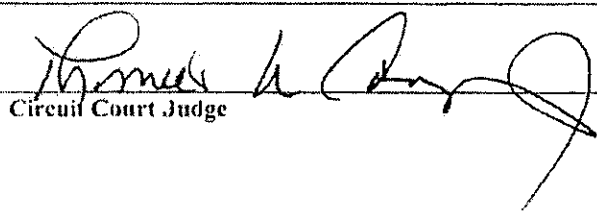
- ☐ **DECISION BY THE COURT AFTER HEARING.** This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.
- ☐ **DECISION BY THE COURT AFTER STATUS CONFERENCE.** This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. ☐ See below for additional information.
- ☐ **MOTION:** Motion Modifying Condition of Home Detention / Electronic Monitoring
- ☐ GRANTED ☐ DENIED ☐ CONTINUED ☐ WITHDRAWN
- ☐ WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party
- ☐ OTHER:

IT IS ORDERED AND ADJUDGED: ☐ See Order of the Court below ☐ See attached order
☐ Formal Order to follow; to be prepared by: ☐ State ☐ Defendant ☐ Other: _____

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.
Additional Information for the Clerk : _____

The Court rules that the ankle monitor shall be removed from defendant as a condition of bond. The Court Will not rule on the Motion to Vacate Bond at this time and all other bond conditions are to stay in place.

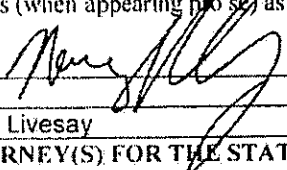

Circuit Court Judge

054
Judge Code

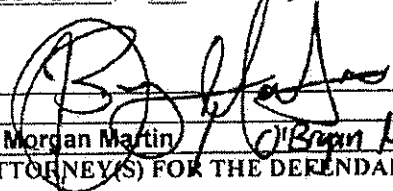
6/18/23
Date

For Clerk of Court Office Use Only

This judgment was entered on the 28 day of June, 2023 and a copy mailed first class or placed in the appropriate attorney's box on this 28 day of June, 2023 to attorneys of record or to parties (when appearing pro se) as follows:



Nancy Livesay
ATTORNEY(S) FOR THE STATE



L. Morgan Martin
ATTORNEY(S) FOR THE DEFENDANT(S)



CLERK OF COURT

Court Reporter:

FILED
1008/1009/1010
2023 JUN 23 12:40
CLERK OF COURT
JUL 10 2023