

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

The Honorable G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ERICK E. HEWINS,

APPELLANT

Appellate Case No. 2013-000224

PETITION FOR APPELLATE BOND

RECEIVED

FEB 20 2014

SC Court of Appeals

Pursuant to Rule 246(a) of the South Carolina Appellate Court Rules, as well as South Carolina Code § 14-8-200(a), and all other applicable Rules, Appellant requests that this Court grant his petition for Bond pending the outcome of his Appeal.

FACTS

Appellant brings this action to appeal his conviction for Trafficking and Possession. Following a trial of this matter, Appellant was sentenced to twenty-seven (27) years by the Honorable G. Edward Welmaker.

Appellant's argument in his initial brief is three fold: (1) that the arresting officer did not have a reasonable, articulable suspicion of illegal activity to initiate an investigatory detention; (2) that the arresting officer did not have a reasonable, articulable fear for his safety or the safety of others to justify a Terry Frisk; and (3) that the Court

erred in admitting evidence presented at trial where the prosecution failed to properly establish a chain of custody as required by law.

Appellant is currently awaiting Respondent's reply brief and thus the Record on Appeal has not been completed.

STANDARD

Under South Carolina Code § 18-1-90, "bail shall be allowed to the Defendant in all cases in which the appeal is from the trial, conviction, or sentence for a criminal offense." *In re Michael H.*, 360 S.C. 540, 602 S.E.2d 729 (S.C. 2004). In considering whether to admit a person to bail pending appeal, the Court should consider the probability of reversal, the nature of the crime, the possibility of escape, and the character and circumstances of the appellant. *Id.* See also *Nichols v. Patterson*, 202 S.C. 352, 25 S.E.2d 155 (S.C. 1943)

ARGUMENT

Under the standards articulated above, Appellant is entitled to bail pending appeal. The underlying nature of the crime is a serious offense, but, in *Whitener* this Court granted bail pending the Appellant's appeal from a conviction of rape. *Id.* at 251, 81 S.E.2d at 788. Furthermore, the underlying nature of the offense is only one factor to consider, and must be taken in conjunction with the remaining factors enumerated in *Michael H.*, namely, the probability of reversal, possibility of escape, and the character and circumstances of the Appellant. *Id.* at 553, 602 S.E.2d at 736.


Appellant's arguments on appeal are not frivolous, nor without substance or merit. *State v. Whitener*, 225 S.C. 244, 81 S.E.2d 784 (S.C. 1954). In addition, there is a substantial probability of reversal in Appellant's case. Appellant has multiple ties to the

community including his girlfriend Rachel Williams, and his mother Beverly Brown, both of whom are willing to attest to the fact that Mr. Hewins will not present a flight risk if released on Bond. Furthermore, Mr. Hewins was released on Bond pending the initial trial of this matter, and abided by all the terms and conditions of that Bond, including occasional appearances, and his appearance at trial.

CONCLUSION

For the reasons articulated herein, and supported by applicable case law, statutory law, and the South Carolina Appellate Court Rules, Appellant requests that this Court grant him a reasonable Bond pending the outcome of his appeal.

RESPECTFULLY SUBMITTED,



Jessica H. Lerer
STROM LAW FIRM, LLC
2110 N. Beltline Boulevard
Columbia SC, 29204
Telephone: (803) 252-4800
jlerer@stromlaw.com

Robert M. Dudek
Chief Appellate Defender

Attorneys for the Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

The Honorable G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ERICK E. HEWINS,

APPELLANT

Appellate Case No. 2013-000224

CERTIFICATE OF SERVICE

I certify that I have served Appellant's Petition for Appellate Bond upon counsel for the Respondent, the State, by delivering a copy via United States mail, postage prepaid on February 18, 2014, to the State's attorney of record Mary Williams at South Carolina Office of Attorney General, Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia SC, 29201.

This 18 day of Feb, 2014


Jessica H. Lerer
STROM LAW FIRM, LLC
2110 N. Beltline Boulevard
Columbia SC, 29204
Telephone: (803) 252-4800
jlerer@stromlaw.com

Robert M. Dudek
Chief Appellate Defender

Attorneys for Appellant

RECEIVED

FEB 20 2014

SC Court of Appeals

STROM
LAW FIRM L.L.C.

2110 BELTLINE BOULEVARD, SUITE A
COLUMBIA, SOUTH CAROLINA 29204

COLUMBIA, SOUTH CAROLINA
BRUNSWICK, GEORGIA

PHONE: 803.252.4800

FAX: 803.252.4801

TOLL FREE: 888.490.2847

WWW.STROMLAW.COM

J. P. STROM, JR. P.A.[†]
MARIO A. PACELLA*
JOHN R. ALPHIN[†]
BAKARI T. SELLERS[†]
JESSICA H. LERER[†]
ALEXANDRA BENEVENTO[†]

* ALSO ADMITTED IN S.C. AND N.Y.
† ADMITTED IN S.C. ONLY

February 18, 2014

VIA UNITED STATES MAIL

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia SC, 29211

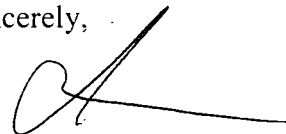
RE: *State v. Erick Hewins*
Appellate Case No. 2013-000224
Petition for Appellate Bond

Dear Clerk Kitchings:

Enclosed, please find the original and three (3) copies of Appellant's Petition for an Appellate Bond, along with a certificate of service upon opposing counsel. We would respectfully request that you file the original, and return the clocked copies to counsel of record in this matter.

Please feel free to contact me if you need any additional information, or with any other questions or concerns. Thank you.

Sincerely,



Jessica H. Lerer
STROM LAW FIRM, LLC

JHL

cc: Mary S. Williams, esq.

RECEIVED

FEB 20 2014

SC Court of Appeals