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S.C. Supreme Court

ALAN WILSON  
ATTORNEY GENERAL

August 1, 2012

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

RE: Nathaniel K. Ferguson, Resp.-Pet., v. State of South Carolina, Pet.-Resp.  
Case No. 2009-CP-30-0725  
Appellate Case No. 2011-197011

Dear Mr. Shearouse,

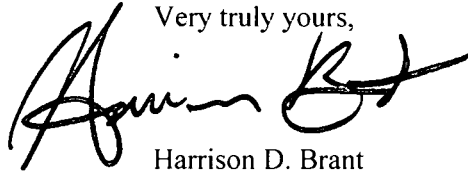
On July 24, 2012, Pet.-Resp. received a copy of Resp.-Pet.'s letter, dated July 19, 2012, asking this Court to reconsider its November 16, 2011 Order denying the Petition for Appeal Bond in the above case. Pet.-Resp. respectfully asks this Court to deny this request for the reasons set forth below.

First, no such petition for reconsideration is permitted under the appellate court rules. See Rules 221(c) & 240(i), SCACR (stating the appellate court "will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal"). Even if such a petition is permitted under the appellate court rules, the petition was not timely filed as it was submitted approximately seven months after the Court issued the Order denying the Petition for Appeal Bond, see, e.g., Rule 221(a), SCACR ("Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court"), and more than three months after Resp.-Pet. filed his Petition for Writ of Certiorari and his Return to Pet.-Resp.'s Petition for Writ of Certiorari.

Second, Resp.-Pet. has failed to identify a change in circumstances warranting reconsideration of the Court's Order denying the Petition for Appeal Bond. As Pet.-Resp. argued in its Return to Petition for Appeal Bond, Resp.-Pet. should be denied release on bond pending appellate review for the following reasons: the likelihood he will not prevail on appeal; the seriousness of the crimes of which he was convicted (murder and possession of a weapon during the commission of a violent crime); the danger he poses to the community as indicated by his extensive prior record which shows a propensity toward violence; the high likelihood of forfeiture of bail and escape in light of the lengthy sentence he faces if Pet.-Resp.'s appeal is successful, and the possibility of facing a life sentence upon re-trial if Pet.-Resp.'s appeal is not successful; and the fact that no substantial purpose would be served by granting bond at this point since his active assistance is not necessary in this appellate case. Therefore, Pet.-Resp. asks this Court to deny Resp.-Pet.'s request for reconsideration of the denial of appellate bond in this case.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Harrison D. Brant". The signature is fluid and cursive, with a large initial "H" and a stylized "B".

Harrison D. Brant  
Assistant Attorney General

cc: Tricia A. Blanchette, Esq.