

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

R. Keith Kelly, Circuit Court Judge

Case No. 2016-GS-42-0169
Appellate Case No: 2016-001651

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DEC 08 2016
SC Court of Appeals

The State, County of Spartanburg,

Respondent,

v.

Danny Vega,

Appellant.

MOTION FOR BOND PENDING APPEAL

COMES NOW the Defendant, Danny Vega would, by and through his attorney, David R. Schumpert III, and pursuant to S.C. Code Annotated §§, 17-15-10 et al; 18-1-70, -80, and -90; and the S.C. Rules of Appellate Practice, Rule 246, and respectfully move this Honorable Court to enter an order releasing the Defendant on bond pending appeal. As grounds in support of this motion please consider:

1. That Mr. Vega was convicted of *Transportation of a Child under 16 years of Age/Custody Order* on July 14, 2016, such conviction recorded on July 19, 2016.
2. That on September 24, 2016, Notice of Appeal was submitted in this matter.

3. That Mr. Vega has amply demonstrated during his initial release on bond in this matter on June 6, 2015, that he can and will abide by all release conditions. Specifically, Mr. Vega was released on five-thousand (\$5,000.00) dollars surety bond, with the only special condition that Mr. Vega appear for his initial appearance. During the over one (1) year of time that these pretrial release conditions were in effect, Mr. Vega successfully complied with every condition. He also appeared at pre-trial hearings and, of course, the first trial.
4. That Mr. Vega has extensive local ties, steady employment in SC and is not a risk for failure to appear at trial.
5. Pursuant to S.C. Code Annotated § 18-1-70 service of notice of appeal in accordance with law shall operate as a stay of the execution of the sentence until the appeal is finally disposed of.
6. Pursuant to S.C. Code Annotated § 18-1-80, and -90 the Defendant may be released from confinement pending appeal given that Defendant provides reasonable bail or surety to the Court.
7. S.C. Code Annotated § 17-15-10 provides that "(a) person charged with a non-capital offense triable in either the magistrates, county or circuit court, shall, at his appearance before any of such courts, be ordered released pending trial on his own recognizance without surety in an amount specified by the court, unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required."
8. That Mr. Vega appeared as required at all times under his pre-trial bond, and that it is in Mr. Vega's best interest to appear as required at all appellate proceedings.
9. Motion for Bond pending appeal was filed with the County of Spartanburg and scheduled to be heard on October 21, 2016. The trial court refused to hear this matter without the permission of the trial judge whose decision was being appealed.
10. Attempts to contact the trial judge have not resulted in a response either way.
11. Mr. Vega now seeks to have the matter of his bond heard by the Court of Appeals.


WHEREFORE, Defendant respectfully requests the following relief:

- A) That this Court set a date of hearing on the matter of Mr. Vega's bond; and

- B) To enter an order setting bail in a reasonable amount, within the financial ability of Defendant and his family; or in the alternative releasing Defendant on his own recognizance; and
- C) Such other relief as the Court finds just and proper.

Respectfully submitted,

SCHUMPERT LITIGATION & MEDIATION



David R Schumpert II
Post Office Box 16466
Seneca, South Carolina 29679
(803) 237-8384
Attorney for Appellant

November 30, 2016

Other Counsel of Record:
Megan L. Moricle
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(864) 596-2386
Attorney for Respondent

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R. Keith Kelly, Circuit Court Judge

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The State, County of
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PROOF OF SERVICE

I certify that I have served MOTION FOR BOND PENDING APPEAL on the respondent by depositing a copy of it in the United States Certified Mail, postage prepaid, on December 7, 2016, addressed to his attorney of record, Megan L. Moricle, Assistant Solicitor, Seventh Judicial Circuit, Spartanburg County Judicial Center, 180 Magnolia Street, Spartanburg, SC 29306.

December 7, 2016


David R. Schumpert III
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(803) 237-8384
Attorney for Appellant

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SC Court of Appeals

December 7, 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
VIS U.S.CERTIFIED MAIL AND FACSIMILIE TO: 803-734-1839

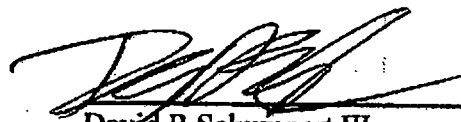
RE: State of South Carolina, County of Spartanburg vs. Danny Vega,
Case No. 2016-GS-42-0169

Dear Ms. Kitchings:

Please find enclosed for filing a Motion for Bond Pending Appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the Motion on the respondent.
- (2) A copy of the sentencing sheet in the matter which is to be challenged on appeal. Sentencing sheet being attached in lieu of order as no further more formal order has been included in the Court's file on this matter.

Sincerely,



David R Schumpert III
Post Office Box 16466
Seneca, South Carolina 29679
(803) 237-8384
Attorney for Appellant

cc: **Megan L. Moricle**
Assistant Solicitor, Seventh Judicial Circuit
Spartanburg County Judicial Center
180 Magnolia Street
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Attorney for Respondent

WNB

1636 Sandifer Blvd

SC

29678

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SC Court of Appeals

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Name: Sherry Albertson

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8 page(s) (including cover)

Subject: Appellate Case No: Motion in State v. Vega

Comments:

SCHUMPERT

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FACSIMILE COVER SHEET

DATE: 12/7/2016
PAGE 1 OF 7

TO: Clerk, Court of Appeals
PHONE:
FAX: 803 734 1839
COMPANY:

FROM: Schumpert Litigation & Mediation
PHONE: 803 237 8384
FAX:

SUBJECT/MATTER:

Appellate Case No:
Motion in State v. Vega
Copies to follow in mail.

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