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OCT 25 2017

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

S.C. SUPREME COURT

APPEAL FROM LEXINGTON COUNTY  
The Honorable Eugene C. Griffith, Jr., Post-Conviction Relief Judge

Appellate Case No. 2017-001877  
Case No. 2014-CP-32-04769

Lance Austin Williams, SCDC No. 00345477.....Respondent,

v.

State of South Carolina.....Petitioner.

REPLY TO RETURN OPPOSING  
RESPONDENT'S PETITION FOR BAIL  
PENDING APPELLATE REVIEW

Richard A. Harpootlian (SC Bar No. 2725)  
Christopher P. Kenney (SC Bar No. 100147)  
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ATTORNEYS FOR RESPONDENT  
LANCE AUSTIN WILLIAMS

October 25, 2017  
Columbia, South Carolina.

## ARGUMENT IN REPLY

In opposition to Respondent Lance Austin Williams' petition for bail pending appellate review, the State has not put forth *any* substantive evidence or legal argument demonstrating that the factors enumerated in Rule 243(k) weigh in favor of its position. The State claims "it is unlikely Respondent will prevail[.]" and "there is no probative evidence in support of the PCR Court's Opinion and Order ... and the grant of relief was based upon multiple errors of law[.]" but fails to point to a single legal error or erroneous factual finding in the PCR court's 31-page Order. See Ret. ¶ 6. Having noticed its intent to file a petition for a writ of certiorari, the State has, presumably, identified at least *one* error in the decision below, but fails to inform the Court of that issue or why it will eventually prevail here. Instead, the State has sought one extension to file and serve its petition (attached as **Exhibit A**) and is likely<sup>1</sup> to seek several more before advising the Court and Mr. Williams of the purported errors below. Without an explanation as to why the State believes it will prevail, the Court should conclude its forthcoming petition is likely to be denied.

Mr. Williams does not dispute that the allegations are serious, but Rule 243(k)'s five-factor analysis is not subsumed by this lone consideration. Cf. Ret. ¶ 7 ("The State also submits the nature of the crime is sufficiently serious to suggest that Respondent is a danger to the community."). Mr. Williams has furnished the Court with specific evidence that supports a finding he is not a flight risk, not a danger to the community, and of good character. See Pet., 17–19 & Exs. D–G. The State offers *ipse dixit* claims in response, some of which are contradictory on their face. For instance,

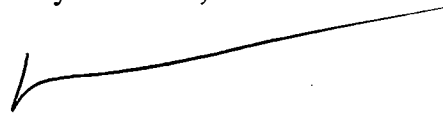
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<sup>1</sup> Multiple extension requests by the State in PCR appeals are so ubiquitous that this Court has ordered a procedure designed to curb their use. See Order RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings (S.C. Sup. Ct. Mar. 18, 2009), <http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01> (requiring a second extension request be supported by "facts" and a third request be signed by the assistant attorney general's immediate supervisor).

the State argues, “Respondent’s request should also be denied based upon the *likelihood* that Respondent *may* flee if released.” Ret. ¶ 9 (emphasis added). The sheer possibility a bailable defendant may flee does not constitute a likelihood he will absent some evidence informing that conclusion. The State offers none.

Finally, accepting the State’s position means holding bail pending appellate review is inappropriate even though Rule 243(k)’s factors favor of granting relief. Such reasoning renders the rule a nullity while rewarding unsupported claims and emotional appeals. The Court should hold otherwise and grant this petition. Mr. Williams has no objection to any condition of bail the Court deems appropriate and just.

Respectfully submitted,



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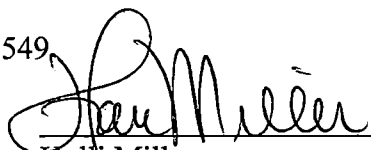
State of South Carolina.....Petitioner.

CERTIFICATE OF SERVICE

I, Holli Miller, paralegal to the attorney for the Applicant, Richard A. Harpootlian, P.A., with offices at 1410 Laurel Street, Post Office Box 1090, Columbia, South Carolina 29202, certify that on October 25, 2017, served by having the below document placed in the mail, first class postage affixed thereto, to the following mentioned person:

Document: Respondent's Reply to Return Opposing Respondent's Petition for Bail Pending Appellate Review

Served: Alphonso Simon, Jr., Assistant Attorney General  
South Carolina Attorney General's Office  
Post Office Box 11549  
Columbia South Carolina 29211-1549

  
Holli Miller



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October 25, 2017  
**VIA HAND DELIVERY**

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S.C. SUPREME COURT

The Hon. Daniel E. Shearouse  
Clerk of Court, South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201

In re: Lance Austin Williams v. State of South Carolina  
Case No. 2017-001877

Dear Mr. Shearouse:

Enclosed please find the original and eight copies of the Respondent's reply to return opposing respondent's petition for bail pending appellate review. Please clock-in the original and copies and return two copies to my courier.

By copy of this letter, I am serving opposing counsel with a copy of the same.

Thank you for your assistance in this matter.

With warm personal regards, I am

Sincerely,

  
Richard A. Harpootlian

/hm

Enclosures

cc: Alphonso Simon, Jr., Assistant Attorney General