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Sep 17 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
The Honorable Alex Kinlaw, Jr., Circuit Court Judge
Appellate Case No. 2018-001257

THE STATE,

Respondent,

vs.

CHARLES DENT,

Appellant.

RETURN TO PETITION TO SET AN APPEAL BOND

On September 7, 2021, Appellant filed a petition to set an appeal bond in the above referenced case. By letter dated September 9, 2021, this Court requested the State provided a return to Appellant's petition. The State's return to Appellant's petition to set an appeal bond follows.

The South Carolina Supreme Court "can grant bail, in its discretion, where [a defendant's] sentence exceeds ten years." State v. Whitener, 225 S.C. 244, 248, 81 S.E.2d 784, 786 (1954). This Court has the same authority to grant bail as our Supreme Court does in a similar case. In re Michael H., 360 S.C. 540, 552, 602 S.E.2d 729, 735 (2004). See also S.C. Code § 14-8-200(a). "The factors to be considered in admitting a person to bail pending appeal include 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. at 553, 602 S.E.2d at 736.

Here, unlike cases where a pretrial bond is sought, Appellant does not come before this Court with a cloak of innocence. Appellant was convicted by a jury of his peers of first degree criminal sexual conduct with a minor and two counts of disseminating obscene material to a minor for actions committed against his biological granddaughter. This conviction demonstrates the jury's belief that Appellant forced Victim to perform fellatio on him and forced her to view a photograph of his penis and pornography.

Each of the factors articulated by our Supreme Court in In re Michael H. weigh against Appellant receiving an appeal bond. The first factor for this Court to consider is probability of reversal. The State filed a petition for rehearing in Appellant's case on August 26, 2021. Should this Court deny the State's petition for rehearing, the State intends to file a petition for a writ of certiorari with the South Carolina Supreme Court. Based on the direct nature of the evidence presented against Appellant at trial, the dissenting opinion of this Court, and our Supreme Court's holding in State v. Herndon, 430 S.C. 367, 845 S.E.2d 499 (2020) ("We acknowledge there may be a case in which a trial court's failure to give the Logan charge might be harmless error, but this is not such a case. The State's case against [Herndon] was almost exclusively circumstantial."), the State respectfully believes the Supreme Court will grant certiorari and overrule the decision of this Court to reverse Appellant's convictions and sentences. However, even if the State is unsuccessful on appeal, Appellant will still be called to reappear in the Beaufort County Court of General Sessions in the near future. The Fourteenth Circuit Solicitor's Office has located Victim and intends to retry Appellant should the reversal of Appellant's convictions stand. (Attachment A). Therefore, the State respectfully suggests the first factor in In re Michael H. weighs against Appellant receiving an appeal bond.

Appellant does not dispute the serious nature of the allegations against him. (Petition to Set Appeal Bond 3). However, the serious nature of the allegations against Appellant is further evidenced by Victim's and Mother's fear of their wellbeing should Appellant be released from custody. (Attachment B). As Mother's letter to this Court indicates, she and Victim not only fear for their own safety if Appellant is released, but also fear for the safety of the community as well. (Attachment B). Therefore, this factor certainly weighs against Appellant's release.

The third factor for this Court's consideration is the possibility of Appellant's escape. Appellant acknowledges he has a home in the State of Alabama where he resided prior to his trial. (Petition to Set Appeal Bond 1). Furthermore, Appellant acknowledges his brother lives in the State of North Carolina and is willing to have Appellant live with him. (Petition to Set Appeal Bond 3). Additionally, Appellant faced criminal charges for child pornography in the State of Alabama prior to his trial. (R. 49, 51, 60). Assistant District Attorney Eric Snyder of the Calhoun County, Alabama District Attorney's Office informed undersigned counsel that the District Attorney's Office is currently investigating the possibility of reinstating the previously dismissed charges. When taken together, all of these circumstances make Appellant a flight risk if he is released from custody. Appellant or his family members have residences in multiple states, and Appellant may face criminal prosecution in at least two states. Therefore, Appellant has an incentive to leave the State of South Carolina and not return if he is released. Thus, the third In re Michael H factor weighs against Appellant's release.

The fourth and final factor for this Court to consider is the character and circumstances of Appellant. While Appellant's military service is commendable and his poor health is lamentable, this Court should not look past the severity of the allegations against Appellant and the fear Victim and Mother have regarding Appellant's potential release. (Attachment B). As Appellant

states, “the best predictor of future conduct is past conduct.” (Petition to Set Appeal Bond 3). In this case, Appellant was convicted by a jury of his peers for forcing his granddaughter to perform fellatio on him and forcing her to view pornography and a picture of Appellant’s penis.

Additionally, while Appellant is innocent until proven guilty for the charges he faces in Alabama, Appellant nonetheless has been accused of possessing child pornography. Therefore, the character of Appellant weighs against this Court setting an appeal bond which would allow his release from custody.

CONCLUSION

For all of the foregoing reasons, the State requests this Court deny Appellant's petition to set an appeal bond.

Respectfully submitted,

ALAN WILSON
Attorney General

SCOTT MATTHEWS
Assistant Attorney General

ISAAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

BY: 
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Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

September 17, 2021

ATTACHMENT A

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Alex Kinlaw, Jr.
Appellate Case No. 2018-001257

THE STATE,

Respondent,

vs.

Charles Dent,

Appellant

STATEMENT IN OPPOSITION OF APPEAL BOND

I, Assistant Solicitor Julie Kate Keeney, am a licensed attorney in South Carolina and an officer of the court. I provide the following statement, which I personally attest to be true and accurate to the best of my knowledge:

I.

I am an Assistant Solicitor in the Fourteenth Judicial Circuit Solicitor's Office.

II.

The prosecutors that tried this case no longer work for the Fourteenth Circuit Solicitor's Office.

III.

I am a prosecutor in our office's Special Victims Unit and prosecute almost all of our circuit's criminal sexual conduct cases involving minors. Therefore, if this case is remanded to the Circuit Court for a new trial, I will be handling the prosecution of this case.

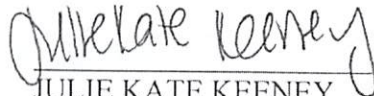
IV.

The Fourteenth Circuit Solicitor's Office is opposed to an appeal bond being granted for Appellant in this case. Our office has located the victim and confirmed that she is willing to testify again if this case has to be retried. Therefore, our office, will prosecute this case if the current opinion of this Court becomes final.

V.

Moreover, it is the position of the Fourteenth Circuit Solicitor's Office that Appellant's request for an appeal bond should be denied due to the seriousness of the charges and his risk of flight.

WHEREFORE, the undersigned hereby certifies the above is true to the best of her knowledge.


JULIE KATE KEENEY
Assistant Solicitor
Fourteenth Judicial Circuit
S.C. Bar # 100145

ATTACHMENT B

Scott Matthews

From: Trisha Allen
Sent: Friday, September 10, 2021 11:46 AM
To: Scott Matthews
Subject: FW: SC Court of Appeals Decision

From: lori mayo
Sent: Friday, September 10, 2021 11:21 AM
To: Trisha Allen <TAllen@scag.gov>
Subject: Re: SC Court of Appeals Decision

To Whom It May Concern,

In regards to Charles Dent's request to be released, I'd like to express my daughters and my concern. Charles is manipulative and meticulous during his prowl for young women and children as he has proven in the past. I can all but guarantee that freedom to Charles means an opportunity to murder any witnesses willing to testify against him as well as an opportunity to prey upon young girls. My daughter and I lived in fear, constantly looking over our shoulder, for four long years until this monster was finally locked away. For my daughters mental well being, and the PTSD she suffers from, I hoped we had heard the last of this. I can most definitely guarantee that to every young woman and child, Charles' freedom means that they are not safe from sexual assault. There is absolutely no doubt in our minds that Charles will use any opportunity he gets to ensure his freedom in order to commit more heinous crimes. We ask that you do not release him, do not give him the opportunity to run, and please do not give him the opportunity to take my child's life. He has already taken so much. Thank you for your time.

Sent from my iPhone

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PROOF OF SERVICE

I, Anne Mueller, certify that I have served the within Return to Petition to Set Appeal Bond on Appellant by electronic mail to the address listed in AIS and with a copy of the same to be deposited in the United States mail, postage prepaid, addressed to:

E. Charles Grose, Jr., Esquire
404 Main Street
Greenwood, SC 29646

I further certify that all parties required by Rule to be served have been served.
This 17th day of September, 2021.



Anne A. Mueller
Legal Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

From: [Anne Mueller](#)
To: charles@groselawfirm.com
Cc: [Scott Matthews](#); [William Blitch \(wblitch@scag.gov\)](mailto:wblitch@scag.gov); [Leigh Ann Stone](#); [Anne Mueller](#)
Bcc: [Victim Services](#)
Subject: State v. Charles Dent, 2018-001257
Date: Friday, September 17, 2021 9:24:00 AM
Attachments: [Dent Charles - 2018-001257 - Return To Petition To Set An Appeal Bond \(02715504xD2C78\).pdf](#)
[image001.png](#)
[Dent Charles - Cover letter to Charles Grose for Return To Petition To Set An Appeal Bond \(02715506xD2C78\).PDF](#)

Good morning, Mr. Grose.

Attached to this email are a cover letter and the State's Return To Petition To Set An Appeal Bond. The Return will be filed with the Court today. A hard copy of the Return will be placed in the mail to you today.

If you would, please confirm your receipt of this email and Return by return email.

Thank you for your cooperation.

Sincerely,

Anne Mueller, Legal Assistant

Anne A. Mueller, Legal Assistant
Office of the South Carolina Attorney General
Criminal Appeals Division • Office 803-734-3922 • scag.gov



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