

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
 State of South Carolina,)
)
 vs.)
)
 BOWEN GRAY TURNER,)
)
 Defendant.)

IN THE GENERAL SESSIONS COURT
 FIRST JUDICIAL CIRCUIT

**PETITION FOR
 WRIT OF MANDAMUS**

CASE NO.:
 2019A3810200093

FILED FOR RECORD
 WINNIFRA B. CLARK
 2022 APR -6 AM 10:29
 CLERK OF COURT
 ORANGEBURG, SC

TO: The Second Circuit Solicitor's Office

Attention: Solicitor Bill Weeks and Deputy Solicitor David Miller

The South Carolina State Law Enforcement Division

Attention: Chief Mark Keel, General Counsel Adam Whitsett, and Special Agent
 Mary McCallister

COMES NOW THE VICTIMS by and through their undersigned attorney, Sarah A. Ford of the South Carolina Victim Assistance Network, pursuant to S.C. Const. art. I, § 24(B), petitions this Honorable Court for a Hearing and Writ of Mandamus to compel the Second Circuit Solicitor's Office and South Carolina State Law Enforcement Division ("SLED") to enforce the Bond Order in the above-referenced case as follows:

1. SLED investigated three allegations of sexual assault against the Defendant, and the Second Circuit Solicitor's Office was selected to prosecute all pending cases against the Defendant after the First Circuit Solicitor's Office was recused for a conflict of interest. The Defendant's father was employed as an Investigator for the First Circuit Solicitor's Office at the time the Defendant was charged and is the basis for the recusal.

2. The Second Circuit Solicitor's Office and SLED are under the jurisdiction of this Court in this case, and both are subject to a Writ of Mandamus to be issued by any justice of the

ATTEST: TRUE COPY
 Winnifra B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section.”¹

3. The Petitioners of this request for a Writ of Mandamus are victims under South Carolina law and are afforded protections under the South Carolina Constitution Article 1, Section 24, and SC Code § 16-3-1505.²

4. On August 5, 2019, this Court issued its Order Granting Bond (“Order”). A copy of the Order is attached to this Petition and incorporated herein by reference. A relevant portion of this Order reads as follows: “If the Defendant is observed violating any term or condition of this Order, any law enforcement agency is hereby authorized by this Order to immediately take the Defendant into custody and to hold the Defendant in custody pending a hearing on the alleged violation(s) of this Order.”

5. Based on a request from the Victims, SLED obtained GPS records from Illery Bonding Company on March 2, 2022, which are attached hereto. GPS records show violations of the Order.

6. On March 25, 2022, the Solicitor’s Office of the Second Judicial Circuit filed a Motion to Revoke Bond, based on these numerous violations. A copy of the Motion is attached hereto and incorporated herein by reference. In summary, from November 2021 through February 2022, the Defendant violated his bond requirements nearly fifty (50) times by failing to comply with conditions of Home Detention, including failing to comply with curfew set by the Court, traveling to prohibited locations, and leaving the State of South Carolina. The Solicitor’s

¹ S.C. Const. art. I, § 24(B): “Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section, and a wilful failure to comply with a writ of mandamus is punishable as contempt.”

² SC Code § 16-3-1505 – Legislative intent: “In recognition of the civic and moral duty of victims of and witnesses to a crime to cooperate fully and voluntarily with law enforcement and prosecution agencies, and in further recognition of the continuing importance of this citizen cooperation to state and local law enforcement efforts and to the general effectiveness and the well-being of the criminal and juvenile justice South Carolina Crime Victims’ Rights Laws systems of this State, and to implement the rights guaranteed to victims in the Constitution of this State, the General Assembly declares its intent, in this article, to ensure that all victims of and witnesses to a crime are treated with dignity, respect, courtesy, and sensitivity; that the rights and services extended in this article to victims of and witnesses to a crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants; and that the State has a responsibility to provide support to a network of services for victims of a crime, including victims of domestic violence and criminal sexual assault.”

Office and SLED were aware of violations of the Order, yet the Defendant was not and has not been taken into custody as of the date of this Petition.

7. Traditionally, bond must be revoked by the Court or a Bench Warrant must be issued before law enforcement has the authority to take a Defendant into custody on bond violations. However, the Court contemplated this very issue and gave authority to law enforcement to place the Defendant into custody in the immediate instance the Defendant was known to violate the Order. This has not happened as of the date of this Petition.

8. The Solicitor and Law Enforcement failed to carry out the intentions of the Court order when they failed to arrest Defendant for the multiple violations. A writ of mandamus is necessary to address this wrong. "The primary purpose of a writ of mandamus is to enforce an established right and a corresponding imperative duty created or imposed by law". *Willimon v. Greenville*, 243 S.C. 82 (1963).

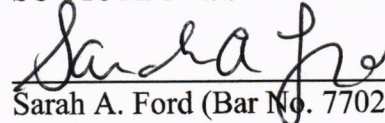
9. In light of Defendant's repeated violations of the Court Order and the Second Circuit Solicitor's Office and SLED failing to place the Defendant in custody when notified of bond violations, there is no other remedy than a Writ of Mandamus to address these violations and protect the victims and public.

10. WHEREFORE, the Petitioner prays as follows:

- a. That this Court sets a hearing to be followed by the issuance of a Writ of Mandamus to enforce the Order and have the Defendant placed into custody; and
- b. For such other and further relief as this Court may deem just and proper.

Respectfully submitted,

SC VICTIM ASSISTANCE NETWORK



Sarah A. Ford (Bar No. 77029)

Attorney for Victims

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Columbia, SC 29221

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April 6, 2022
Orangeburg, South Carolina

STATE OF SOUTH CAROLINA)
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COUNTY OF ORANGEBURG)
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State of South Carolina,)
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IN THE GENERAL SESSIONS COURT
FIRST JUDICIAL CIRCUIT

WRIT OF MANDAMUS

CASE NO.:
2019A3810200093

THE ABOVE-CAPTIONED MATTER having come on for hearing on _____, it is
this _____ day of _____, 20__ ORDERED that:

1. The Court finds that the Victims have shown that the Order Granting Bond, dated August 5, 2019, has not been complied with and the Defendant has not been placed into custody by Law Enforcement as required under said Order. The Court also finds that said Order was not acted upon by the Second Circuit Solicitor's Office and the South Carolina State Law Enforcement Division (SLED). The Court further finds that the Second Circuit Solicitor's Office and SLED had an affirmative duty to act in compliance with the Order. The Court further finds that the Victims have no administrative or judicial remedy other than a Writ of Mandamus to compel the Second Circuit Solicitor's Office and SLED to perform said duty.
2. The Court, therefore, issues this WRIT OF MANDAMUS compelling the Second Circuit Solicitor's Office and SLED to place the Defendant in custody immediately.
3. Upon compliance, the Second Circuit Solicitor's Office and SLED shall file a certificate with this Court stating that the act commanded hereby has been performed.
4. The Clerk of Court shall send a copy of this Writ of Mandamus to all counsel.

IT IS SO ORDERED. ATTEST: TRUE COPY

Date

Winnija B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

Circuit Court Judge

EXHIBIT 1

FILED FOR RECORD
WINNIFA B. CLARK
2022 APR -6 AM 10:30
CLERK OF COURT
ORANGEBURG, SC

ATTEST: TRUE COPY

Winnifa B. Clark

CLERK OF COURT
ORANGEBURG COUNTY, SC

court, mental health appointments and for medical emergencies; that he be in the physical presence of one of his parents, grandmother or aunt at all times; that he not have any visitors to his home not related to him by blood or marriage; that he have no contact with the victim or the victim's family; that he stay a minimum of 250 yards from the victim's residence at all time; that he enroll in and make progress towards completion of his high school graduation requirements and that other than for academic reasons, he shall not have any internet or cell phone access and is prevented from any and all social media activity. A copy of Judge McFaddin's August 5, 2019 Order Granting Bond is attached hereto as Exhibit A.

5. That on March 9, 2020, a hearing was held on the Defendant's motion to modify bond to allow him to reside with his parents at 3361 Jackson Street, Orangeburg, South Carolina. That motion was granted by the Honorable George McFaddin, Jr. and all of the other above-listed conditions of bond remained in place. A copy of Judge McFaddin's March 9, 2020 Order Granting Bond Reconsideration is attached hereto as Exhibit B.
6. That Defendant visited the Linrick Golf Course located at 356 Campground Road, Columbia, South Carolina a total of 13 times on the following dates and times:
 - November 3, 2021 from 12:06-2:00 PM and returned home at 5:00 PM
 - November 17, 2021 from 11:19-11:28 AM and returned home at 2:30 PM
 - December 7, 2021 at 12:37 PM from 12:37-12:47 PM then to Clyburn Golf Center as listed below and returned home at 4:53 PM
 - January 11, 2022 from 2:15-2:25 PM and returned home at 4:48 PM
 - January 13, 2022 from 4:19-4:29 PM and returned home at 7:00 PM
 - February 3, 2022 from 2:10-3:30 PM and returned home at 5:24 PM
 - February 10, 2022 from 2:32-2:43 PM and returned home at 1:00 AM
 - February 13, 2022 from 3:12-4:38 PM with two other stops in Lexington, South Carolina as listed below and returned home at 6:32 PM
 - February 15, 2022 from 2:27-2:36 PM and returned home at 5:58 PM
 - February 17, 2022 from 1:01-1:10 PM and returned home at 4:36 PM
 - February 22, 2022 from 2:42-3:32 PM and returned home at 6:15 PM
 - February 23, 2022 from 3:25-3:31 and returned home at 4:46 PM
 - February 25, 2022 from 12:40-4:45 and returned home at 6:13 PM
7. That Defendant visited the James Clyburn Golf Center located at 2091 Slighs Avenue, Columbia, South Carolina a total of 6 times on the following dates and times:
 - December 7, 2021 from 2:08-3:00 PM and returned home at 4:53 PM
 - January 18, 2022 from 1:58-3:00 PM and returned home at 5:49 PM
 - January 25, 2022 from 11:40-2:00 PM and returned home at 4:24 PM
 - February 1, 2022 from 1:54-3:00 PM and returned home at 6:27 PM
 - February 8, 2022 from 1:41-3:00 PM then to his grandmother's residence located at 1104 Mobile Street, Orangeburg, South Carolina, as listed below from 5:05-5:14 PM and returned home at 10:00 PM
 - February 23, 2022 from 12:05-12:15 PM and then to the Linrick Golf Course as listed above and returned home at 4:46 PM