

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

State of South Carolina,)

Indictment Nos. 2022-GS-15-00592,
593, 594, and -595

v.)

Richard Alexander Murdaugh,)

**STATE'S RESPONSE TO DEFENSE
MOTION FOR DEFENDANT TO BE
UNSHACKLED IN THE COURTROOM**

Defendant.)

_____)

Defendant Richard Alexander Murdaugh is currently incarcerated in the South Carolina Department of Corrections and serving an aggregate 27-year sentence for a series of financial crimes, which is being served concurrently with a 40-year federal sentence for similar crimes. Defendant was previously tried on and convicted by a jury of two counts of murder and two counts of possession of a weapon during the commission of a violent crime for the brutal murders of his wife and son. On May 13, 2026, the Supreme Court of South Carolina reversed the murder/weapon convictions and remanded for new proceedings based on improper comments made by the clerk of court. Though Defendant remains in custody on other criminal convictions, he is seeking "an order requiring the State to unshackle him and allow him to wear civilian clothing during trial and during pretrial courtroom proceedings in which news media are present with cameras." (Mtn. at 1). While admittedly there is wide public interest in the case, that is no basis to ignore normal security concerns in a *nonjury* setting, and no basis to grant Murdaugh's request to be treated differently from his fellow inmates in court simply because the crimes he allegedly committed have received media attention.

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COLLETON CO GS, GARY HALE

LAW

"The law has long forbidden routine use of visible shackles **during the guilt phase**; it permits a [s]tate to shackle a criminal defendant only in the presence of a special need." Deck v. Missouri, 544 U.S. 622, 626 (2005). A defendant's appearance in shackles "may reverse the presumption of innocence by causing **jury** prejudice thereby denying him due process." Jones v. Meyer, 899 F.2d 883, 884 (9th Cir.); see Duckett v. Godinez, 67 F.3d 734, 748 (9th Cir. 1995) (holding that because of the potential for prejudice, due process requires that shackles be used as a "last resort"). However, "the trial judge is the best equipped to decide the extent to which security measures should be adopted to prevent disruption of the trial, harm to those in the courtroom, escape of the accused, and prevention of other crimes." State v. Tucker, 320 S.C. 206, 209, 464 S.E.2d 105, 107 (1995).

"In order for a criminal defendant to enjoy the maximum benefit of the presumption of innocence, our courts should make every reasonable effort to present the defendant before **the jury** in a manner that does not suggest, expressly or impliedly, that he or she is a dangerous character whose guilt is a foregone conclusion.... The negative connotations of restraints, nevertheless, are without significance **unless the fact of the restraints comes to the attention of the jury**." State v. Brawley, 137 A.3d 757, 760 (Ct. 2016), citing State v. Webb, 680 A.2d 147(1996) (emphasis added). It is the defendant's burden to show that the presence of shackles prejudiced him in some way. See U.S. v. Mayes, 158 F.3d 1215, 1226-27 (11th Cir. 1998) (even if court abused its discretion in ordering defendants to wear leg irons during trial, defendants failed to demonstrate prejudice and were not denied fair trial).

When a trial is commenced, the trial court has discretion but must balance the interests between the need for shackling and the defendant's constitutional rights. State v. Heyward, 441 S.C. 484, 492, 895 S.E.2d 658, 662 (2023).

This careful balancing of the competing interests—and articulation of the balancing on the record for the benefit of appellate courts—is necessary to honor the defendant's due process rights whenever the State seeks to restrain the defendant in the jury's presence. In *United States v. Samuel*, 431 F.2d 610 (4th Cir. 1970), the United States Court of Appeals for the Fourth Circuit held, "Whenever unusual visible security measures in jury cases are to be employed, we will require the district judge to state for the record, out of the presence of the jury, the reasons therefor and give counsel an opportunity to comment thereon, as well as to persuade him that such measures are unnecessary." 431 F.2d at 615. Similarly, the Supreme Court of the United States recognized the necessity the trial court "s[ee] the matter as one calling for discretion," *Deck*, 544 U.S. at 634, 125 S. Ct. at 2015, 161 L. Ed. 2d at 966, and refused to sanction the "discretionary" use of shackles when the trial court did not articulate a valid reason for them and "did [not] explain why, if shackles were necessary, he chose not to provide for shackles that the jury could not see," 544 U.S. at 634-35, 125 S. Ct. at 2015, 161 L. Ed. 2d at 966. This Court required balancing of the competing interests in *Tucker*, stating, "The trial judge is to balance the prejudicial effect of shackling with the considerations of courtroom decorum and security." 320 S.C. at 209, 464 S.E.2d at 107 (citing *Illinois v. Allen*, 397 U.S. 337, 343, 90 S. Ct. 1057, 1061, 25 L. Ed. 2d 353, 359 (1970)).

Thus, a defendant in a criminal trial may not be required to wear handcuffs, leg shackles, or other restraints in the presence of the jury unless the trial court makes specific findings on the record as to the particular reasons the restraints are necessary. If the court finds restraints are necessary, it must make every reasonable effort to ensure the restraints are not visible to the jury. See *Deck*, 544 U.S. at 629, 125 S. Ct. at 2012, 161 L. Ed. 2d at 963 (stating the Due Process Clauses of "the Fifth and Fourteenth Amendments prohibit the use of physical restraints visible to the jury absent a trial court determination, in the exercise of its discretion, that they are justified by a state interest specific to a particular trial").

Id., at 663.

DISCUSSION

Murdaugh is not just a pre-trial detainee; he is an inmate serving a very long sentence. The State always defers to the security considerations of the agency charged with custody of an inmate – in this case SCDC. SCDC's practice and position here is that any inmate should remain in restraints and in uniform for court appearances, and this is especially so in Murdaugh's case given the length of his nonparoleable sentence, the seriousness of the charges he is facing, and the additional security concerns that Defendant's notoriety brings. Indeed, the first two steps of any escape attempt are to become unrestrained and to get into civilian clothes. While the State and SCDC will obviously adjust to whatever this Court decides, the fact remains that Defendant's notoriety actually increases the security concerns. As such, the motion should be denied for the following reasons.

First, Defendant's rights are not being violated by being treated as any other normal inmate in non-jury proceedings before this Court. The cases speaking of prejudice are primarily focused on proceedings before a jury, and the State recognizes that the calculus will be different when trial starts and a jury is involved. On the other hand, this Court is not susceptible to prejudice from the mere fact Murdaugh is not dressed out, as it routinely and objectively hears matters in inmate cases. The fact that potential jurors may view media coverage of pretrial matters should not dictate varying from normal security protocols, when the remedy for that is voir dire, jury selection, and instructions to the jurors from the Court. Foye v. State, 335 S.C. 586, 590 n.1, 518 S.E.2d 265, 267 n.1 (1999) ("A jury is presumed to follow instructions."); *id.* ("[W]ithout some

showing the jurors disregarded [juror] instructions, [the appellate court] declines to presume prejudice.").

Second, the reality is Murdaugh's conduct in custody has not been pristine. Defendant has had instances in which he violated security protocols. During the original trial, a family member passed a book through a defense staff member directly to Murdaugh without knowledge of law enforcement. This book was later recovered in defendant's cell and a jail contraband warrant was obtained. Moreover, on August 9, 2023, defendant received an SCDC disciplinary for abuse of privileges, and on August 15, 2023, defendant received an SCDC disciplinary for unauthorized use of another inmate's PIN. He has demonstrated that he will break the rules and circumvent security if given the chance.

Third, the Defendant's notoriety cuts against any prejudice. It is well known fact that Defendant is in prison for his longstanding fraud. The defense refers to the fact that he is in prison and not going anywhere all the time in its public statements, such as on the Today Show just a few weeks ago. Dressing in civilian clothes would create more coverage detrimental to the process as to why Defendant is receiving different treatment than other inmates. There simply is no possible prejudice from the well known fact of his prison sentences enough to undercut normal security protocols.

CONCLUSION

This case is ultimately about the fact that Defendant thinks he is special. He is not. It is not the State or SCDC's fault that Defendant is a convicted felon serving a long sentence, and he should not be able to simply ignore the consequences of what he admittedly did. Regardless of what happens with re-trial, Murdaugh is an inmate in SCDC

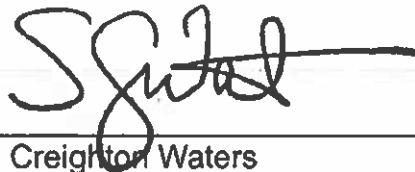
-serving a 27-year sentence at 85%, after which he would have complete the remainder of a 40-year sentence in federal prison. He is facing even more severe consequences if convicted of a double murder at retrial. Moreover, his notoriety and misconduct increase those already complicated security concerns. SCDC should not be forced to deviate from normal practice because of a well-known fact that the defense publicly throws around whenever it suits them, particularly for such things like a non-jury status conference as to scheduling.

It is respectfully submitted that Defendant's motion should be denied.

Respectfully submitted,

ALAN WILSON
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STATE OF SOUTH CAROLINA

By:



S. Creighton Waters
Chief Attorney
State Grand Jury Division

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Columbia, South Carolina
June 24, 2026

STATE GRAND JURY OF SOUTH CAROLINA

State of South Carolina,

v.

Richard Alexander Murdaugh

Defendant

Case No.: 2022-GS-15-00592 - 595

CERTIFICATE OF SERVICE

I, Carly Jewell, Paralegal to S. Creighton Waters, with offices located at 1000 Assembly Street, Columbia, South Carolina 29201, hereby certify that I have on this 24th Day of June, 2026, served a **RESPONSE TO DEFENSE MOTION FOR DEFENDANT TO BE UNSHACKLED IN THE COURTROOM** on counsel for the Defendant by electronic mail, and by depositing a hard-copy in the United States mail, first class postage prepaid, addressed to the below mentioned:

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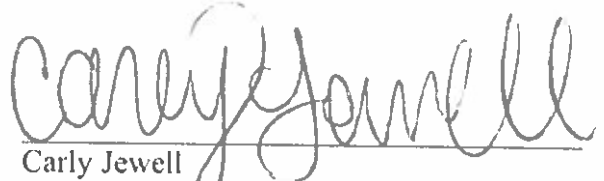
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