

**IN THE SUPERIOR COURT OF WARE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA)	
)	
v.)	Indictment No. 04R-330
)	
SHEILA DENTON,)	
)	
Defendant.)	
)	

EMERGENCY MOTION FOR ORDER GRANTING IMMEDIATE RELEASE

On March 20, 2020, pursuant to O.C.G.A. § 17-6-1, undersigned counsel filed a motion requesting bond for Sheila Denton in the above-captioned case. Georgia law mandates a hearing within ten days of such a request. *See* O.C.G.A. § 17-6-1(d) (“The court *shall* notify the district attorney and set a date for a hearing within ten days after receipt of such petition.”) (emphasis added).

The statewide judicial emergency declaration *explicitly* does *not* exempt this type of motion from being heard in a timely fashion. *See* Chief Justice Harold D. Melton, “Order Declaring Statewide Judicial Emergency,” at 1 (S. Ct. Mar. 14, 2020) (defining as an “essential function,” for which courts should remain open to hear, “criminal court . . . bond reviews”).

More than ten days have passed since the filing of the motion for bond, and no hearing has been scheduled or conducted. Nor has the prosecution opposed the motion for bond. Thus, Ms. Denton, who has served more than fourteen years in prison for an offense that the prosecution has conceded it cannot convict her of committing, is being illegally detained.¹

¹ This Court appropriately ordered that Ms. Denton be returned to the custody of the Ware County Sheriff once its February 7, 2020, order granting her a new trial became final. It became final when the prosecution did not appeal the order within 30 days. General counsel for the Department of Corrections (DOC) has told undersigned counsel that at such point, the DOC no longer has authority to detain Ms. Denton. Yet Ms. Denton remains confined in a DOC prison.

Undersigned counsel files this emergency motion out of grave concern for Ms. Denton's health given her heightened risk for contracting COVID-19. Undersigned counsel has been advised by medical professionals that, if Ms. Denton becomes ill, she is likely to become seriously ill and is at a higher risk of death given her current health issues and her conditions of confinement. Her Georgia Department of Corrections medical file indicates that she has chronic health conditions, including diabetes, kidney disease, chronic anemia, and stomach ulcers. It is medically undisputed that people who have chronic conditions and/or are immunocompromised, like Ms. Denton, are more susceptible to developing life-threatening illness secondary to COVID-19.

Indeed, COVID-19 has already infiltrated Georgia's prisons and jails. To date, there are at least forty-six confirmed cases among prison staff and inmates, including the deaths of at least two inmates. *See* Confirmed COVID-19 Cases, Georgia Department of Corrections, *available at* <http://www.gdc.ga.gov/content/cases> (last visited Apr. 5, 2020). The number of infected people within Georgia's prisons has increased daily.²

Furthermore, over the past two months undersigned counsel has sent numerous emails and left multiple voicemail messages with the Ware County District Attorney's Office in hopes of discussing this case, and every single one of those messages has been ignored. Most recently, undersigned counsel emailed and mailed a letter to the attention of prosecutors George Barnhill

² Courts in Georgia and around the country have been encouraged to release, and are releasing, people who are detained and at risk of contracting COVID-19. *See, e.g.*, "Order Granting Release Pending Final Hearing on Petition for Revocation of Supervised Release," *United States v. Travis Bolston*, Crim. No. 1:18-CR-382-MLB-RDC (N.D. Ga. Mar. 30, 2020); "Memorandum and Order," *United States v. Pedro Muniz*, Crim. No. 4:09-CR-0199-1 (S.D. Texas Mar. 30, 2020); "Consent Order," *In the Matter of the Request to Commute or Suspend County Jail Sentences*, Docket No. 084230 (N.J. Mar. 22, 2020); Order, *Jeffrey v. Brann*, No. 451078/2020 (Sup. Ct. N.Y. Co. Mar. 26, 2020); Prison Policy Initiative, "Responses to the COVID-10 pandemic," <https://www.prisonpolicy.org/virusresponse.html#releases>; Timothy Williams et al., "'Jails Are Petri Dishes': Inmates Freed as the Virus Spreads Behind Bars," *The New York Times* (Mar. 30, 2020), *available at* <https://www.nytimes.com/2020/03/30/us/coronavirus-prisons-jails.html>.

and Michelle McIntire, requesting dismissal of this case (the letter is attached to this Motion). The prosecution's unwillingness to communicate has left undersigned counsel with no knowledge of the prosecution's position in this case. Thus, out of concern for the wellbeing of an at-risk client during this unprecedented pandemic, a client who has been in prison for more than fourteen years for a conviction that has now been vacated because it was based on unreliable evidence, undersigned counsel must now ask this Court to act and release Ms. Denton. In the event this matter cannot be resolved expeditiously, undersigned counsel will be left with no choice but to commence a habeas action in Habersham County, where Ms. Denton currently is incarcerated.

For the reasons stated above, Ms. Denton respectfully requests that this Court grant her March 20, 2020, Motion for Bond, which the prosecution did not oppose, and immediately release her.

Respectfully submitted,

/s/ Mark Loudon-Brown
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Counsel to Sheila Denton

CERTIFICATE OF SERVICE

In addition to filing the foregoing with this Court, a copy of the foregoing motion has been served, via mail and e-mail, upon:

George Barnhill
Michelle McIntire
Office of the District Attorney
Waycross Judicial Circuit
306 Albany Avenue
Waycross, Georgia 31501
gebarnhill@pacga.org
mmcintire@pacga.org

On this 6th day of April, 2020.

/s/ Mark Loudon-Brown
Mark Loudon-Brown



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April 3, 2020

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Re: *State of Georgia v. Sheila Denton*, Indictment No. 04R-330 (Ware Co. Super. Ct.)

Dear Mr. Barnhill and Ms. McIntire,

As you know, our client, Sheila Denton, was convicted of felony-murder and sentenced to life in prison in 2006. On February 7, 2020, Chief Judge Dwayne Gillis granted Ms. Denton a new trial. You did not appeal that decision. On March 20, 2020, we filed a motion for bond, arguing that Ms. Denton should be released in light of the court's finding that Ms. Denton would probably be acquitted at a new trial and her susceptibility to contracting COVID-19.¹ You did not oppose that motion and the ten days within which Ms. Denton was entitled to a hearing on the matter have now passed. We have reached out to your office several times in the past two months to discuss this case, but we have not received a response. For the reasons outlined below, we ask that you dismiss this case immediately.

First, your office has conceded that there is reasonable doubt in this case. At Ms. Denton's trial, in his closing argument, the prosecutor argued that, *if not for the testimony that the decedent inflicted a bite mark on Ms. Denton, "I'd have to admit that's reasonable doubt."* T. 434. In granting a new trial, Judge Gillis wrote that the bite mark testimony presented by the prosecution at trial "has proven to be unreliable and not generally accepted

¹ See, e.g., Christian Boone, "Coronavirus is spreading in Georgia prisons," *The Atlanta Journal-Constitution* (Mar. 30, 2020), available at <https://www.ajc.com/news/crime--law/coronavirus-spreading-georgia-prisons/6L7qwo3rSaPMG76ha2oHQI/>.

within the scientific community of forensic odontology.” Order at 25. Judge Gillis found that “The ABFO’s recognition of the inadequacies of bite mark evidence is profound and undisputed.” Order at 24. He concluded, “We now know the bite mark evidence presented in Denton’s trial was not competent evidence under *Harper*.” Order at 24. Your office did not appeal that order, which is now final. With the bite mark evidence no longer admissible, by your own admission, there is reasonable doubt in this case. In other words, you have recognized that Ms. Denton, who has served 14 years in prison, would not be convicted today.

Second, Ms. Denton is particularly susceptible to contracting COVID-19. In preparing our motion for bond and this letter, we have been advised by medical professionals that, if Ms. Denton becomes ill, she is likely to become seriously ill and is at a higher risk of death given her current health issues and her conditions of confinement. Her Georgia Department of Corrections medical file indicates that she has chronic health conditions including diabetes, kidney disease, chronic anemia, and stomach ulcers. It is medically undisputed that people who have chronic conditions and/or are immunocompromised, like Ms. Denton, are more susceptible to developing life-threatening illness secondary to COVID-19.²

In sum, as the Superior Court and the prosecutor at Ms. Denton’s trial have already acknowledged, upon retrial, Ms. Denton will likely be acquitted. And yet, Ms. Denton remains incarcerated at a heightened risk of contracting COVID-19. Given this unprecedented public health crisis, courts and prosecutors around the country have been releasing people like Ms. Denton.³ We urge you to do the same and to dismiss this case immediately. Any delay will, without justification, significantly harm Ms. Denton and jeopardize her life.

Respectfully,

/s/ Mark Loudon-Brown
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/s/ Katherine Moss
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Enc.: Order Granting Extraordinary Motion for New trial, *State v. Denton*, No. 04R-330

² See, e.g., Centers for Disease Control and Prevention, “Coronavirus (COVID-19),” <https://www.cdc.gov/Coronavirus/2019-ncov/index.html>. At least one prison inmate in Georgia has already died due to COVID, and new cases within the prison system are being reported every day. Georgia Department of Corrections, “Confirmed COVID-19 Cases,” <http://www.gdc.ga.gov/content/cases>.

³ See, e.g., Prison Policy Initiative, “Responses to the COVID-10 pandemic,” <https://www.prisonpolicy.org/virusresponse.html#releases>; Timothy Williams et al., “‘Jails Are Petri Dishes’: Inmates Freed as the Virus Spreads Behind Bars,” *The New York Times* (Mar. 30, 2020), available at <https://www.nytimes.com/2020/03/30/us/coronavirus-prisons-jails.html>; Christian Boone, “Expert to Fulton jail: Release 800 inmates or risk ‘disaster,’” *The Atlanta Journal-Constitution* (Apr. 1, 2020), available at <https://www.ajc.com/news/local/waiting-die-infected-inmate-slams-conditions-fulton-jail/DJHRrDUniGA7uDolBHxKeM/>; “Order Granting Release Pending Final Hearing on Petition for Revocation of Supervised Release,” *United States v. Travis Bolston*, Crim. No. 1:18-CR-382-MLB-RDC (N.D. Ga. Mar. 30, 2020).