Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V JAMES G GOSTLIN

Docket No. 379375

LC No. 1963-000025-FC

Christopher M. Murray
Presiding Judge

Michelle M. Rick

Sima G. Patel
Judges

The motion for immediate consideration is GRANTED.

The motion for bond pending appeal is GRANTED to the following extent. Given defendant's age, medical conditions, and overall behavior while in prison, which we conclude show that defendant is not likely to pose a danger to others, and because this appeal raises substantial questions of law and fact, MCL 770.9a(2)(b), we conclude that the trial court abused its discretion by denying defendant's motion for bond pending appeal. However, pursuant to MCR 7.209(B)(2), "In a criminal case the granting of bond pending appeal and the amount of it are within the discretion of the trial court, subject to applicable laws and rules." Accordingly, we REMAND to the trial court with directions that it hold a hearing and set an appropriate bond, in both the amount and any other conditions the trial court finds appropriate. We note that "[b]ond must be sufficient to guarantee the appearance of the defendant." Minimally, defendant's release on bond must be conditioned on defendant agreeing to: (a) prosecute the appeal to decision; (b) surrender himself to the sheriff of the county in which he was convicted if his sentence is affirmed on appeal or if the appeal is dismissed; (c) appear in the trial court if the case is remanded for further proceedings; (d) remain in Michigan unless the trial court gives written approval to leave; and (3) notify the trial court clerk of any change of address. Any further issues concerning defendant's bond shall be addressed to the trial court, and supervision of defendant's compliance with the terms of the bond shall be carried out by the trial court, pending further proceedings.

The trial court shall hold the bond hearing and set an appropriate appellate bond within 21 days of the date of the Clerk's entry of this order.



Presiding Judge

Murray, P.J. (dissenting). I would deny the motion for bond pending appeal, as defendant has not shown in a clear and convincing manner that there are substantial issues of fact or law at issue in his appeal, MCR 7.209(B)(2) and MCL 770.9a(2), the same conclusion the trial court reached in denying defendant's second motion for bond. The court's conclusion was not an abuse of discretion, and was in fact a fully-informed decision about defendant's case and circumstances. *People v Tate*, 134 Mich App 682, 693; 352 NW2d 297 (1984). After all, the court had recently held a resentencing hearing under *Miller v Alabama*, 567 US

460; 132 S Ct 2455; 183 L Ed 2d 407 (2012), where it heard evidence and argument from both sides, and rendered a decision re-imposing life without parole. That discretionary decision is now on appeal, and our Court just last month concluded that any errors (if any) were not so manifest that peremptory reversal was required. See *People v Gostlin*, unpublished order of the Court of Appeals, entered March 6, 2026 (Docket No. 379375). Although that motion garners a different standard than the current one, the panel's determination is nonetheless evidence that the issues on appeal are not substantial. Indeed, defendant's appeal is one of many that this Court has seen over the past few years taken from a resentencing done pursuant to *Miller*. Those appeals typically involve reviewing the evidence and factual findings of the trial court (which are also subject to a deferential standard), and applying those to the governing law. And importantly, the trial court's decision to sentence defendant to life without parole is reviewed for an abuse of discretion, *People v Taylor*, 510 Mich 112, 128; 987 NW2d 132 (2022), a difficult standard to overcome, *People v Rogers* (On Remand), 338 Mich App 312, 320; 979 NW2d 747 (2021). Defendant also has no family in Michigan, and appears intent on moving to Ohio if he is released, raising legitimate concerns for his future apperance in this state. See *People v Giacalone*, 16 Mich App 352, 360-361; 167 NW2d 871 (1969).

While defendant has and will argue that he has served more than 60 years in prison, has a relatively good record, and has health issues, the prosecution has and will argue about his failure to acknowledge his sexual crimes and activities, and the fact that he murdered a child with 8 blows to the head with a hammer, and beat both Mr. and Mrs. Husted (and paralyzing Mr. Husted), while also repeatedly raping Mrs. Husted. More could be written, but the point is that nothing defendant has presented in his motion establishes that the trial court abused its discretion when denying defendant's motion for bond pending appeal, as it was within the principled outcomes to decide-especially in the immediate aftermath of the *Miller* hearing-that there was not clear and convincing evidence that substantial questions of law or fact exist in the pending appeal. If the issue is merely that defendant's age, prison time and health should allow him to be released from prison, he should turn to the Governor and her equitable powers of pardon and commutation, Const 1963, art 5, § 14, as the legal standards preclude the current relief he seeks in a court of law, at least until the merits are resolved.

COURT OF APPEALS OF THE STATE OF MICHIGAN
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A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

April 10, 2026
Date

Chief Clerk