

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NICHOLAS PAUL MASLONKA,

Petitioner,

CASE NO. 2:13-CV-14110
HON. ARTHUR J. TARNOW

v.

BONITA HOFFNER,

Respondent.

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**OPINION AND ORDER DENYING THE EMERGENCY
MOTION FOR BOND (ECF No. 77)**

This Court granted petitioner a conditional writ of habeas corpus, on the ground that petitioner was denied the effective assistance of trial counsel when his attorney failed to appear at critical stages in the criminal proceedings. *Maslonka v. Hoffner*, No. 2:13-CV-14110, 2017 WL 2666103 (E.D. Mich. June 21, 2017).

The United States Court of Appeals for the Sixth Circuit reversed this Court's decision and remanded the matter to this Court to consider petitioner's ineffective assistance of appellate counsel claims. *Maslonka v. Hoffner*, 900 F.3d 269, 273 (6th Cir. 2018), *cert. denied sub nom. Maslonka v. Nagy*, 139 S. Ct. 2664 (2019).

Petitioner has filed an emergency motion for bond. For the reasons that follow, the motion for bond is DENIED.

In order to receive bond pending a decision on the merits of a habeas corpus petition, a petitioner must show a substantial claim of law based on the facts and exceptional circumstances justifying special treatment in the interest of justice. *Lee v. Jabe*, 989 F.2d 869, 871 (6th Cir. 1993)(quoting *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990)); *see also Nash v. Eberlin*, 437 F.3d 519, 526, n. 10 (6th Cir. 2006). There are few occasions where a habeas petitioner meets this standard. *Dotson*, 900 F.2d at 79. Federal courts may grant bond when granting the writ. *See Sizemore v. District Court*, 735 F.2d 204, 208 (6th Cir. 1984). By implication, a federal court should not grant bond under other circumstances. Petitioner has failed to establish at this time that he would prevail on the merits on his remaining claims on remand; he is not entitled to release on bond. *See e.g. Greenup v. Snyder*, 57 F. App'x 620, 621-22 (6th Cir. 2003). This matter can be reconsidered upon receipt of the supplemental pleadings.

Based on the foregoing, the Emergency Motion for Bond (ECF No. 77) is DENIED.

Dated: August 27, 2020

s/Arthur J. Tarnow
HON. ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE