

<p>COURT OF APPEALS, STATE OF COLORADO Ralph L. Carr Judicial Center 2 East 14th Avenue Denver, Colorado 80203</p> <p>Appeal from Mesa County District Court Judgment of Conviction and Sentence. Case Number 22CR371. Honorable Matthew D. Barrett.</p>	<p>DATE FILED January 30, 2026 1:04 AM FILING ID: 312E7543224BB CASE NUMBER: 2024CA1951</p>
<p>Plaintiff-Appellee: PEOPLE OF THE STATE OF COLORADO v. Defendant-Appellant TINA PETERS</p>	
<p>Appellant's Attorneys: John Case, Atty reg. # 2431 John Case, P.C. 6901 South Pierce St. #340 Littleton CO 80128 Phone: (303) 667-7407 E-mail: brief@johncaselaw.com</p> <p>Patrick M. McSweeney, Pro Hac Vice Robert J. Cynkar, Pro Hac Vice McSweeney, Cynkar & Kachouroff, PLLC 3358 John Tree Hil Woodbridge VA 22192</p> <p>Peter Ticktin, Pro Hac Vice The Ticktin Law Group 270 SW Natura Avenue Deerfield Beach, Florida 33441</p>	<p>Case Number: 2024CA1951</p>
<p align="center">APPELLANT'S PETITION FOR REVIEW OF TRIAL COURT'S DENIAL OF BOND PENDING APPEAL PURSUANT TO C.A.R. 9(a)</p>	

Pursuant to C.A.R. 9(a), Appellant Tina Peters seeks review of the trial court's denial of bond pending appeal, which was based on Mrs. Peters' speech. Pursuant to C.R.S. §16-4-204(3)(b), Mrs. Peters asks this Court to enter an Order directing the trial court to reinstitute the bond in the amount of \$25,000 cash or surety under which she was released during the proceedings below.

GROUNDS FOR THE PETITION ARE:

1. On October 3, 2024, the trial court denied Mrs. Peters' application for bond on appeal because the trial judge disagreed with words she used to criticize Mesa County's computer voting system. Tr. 10/3/24 98-100.¹

2. Appellant is in physical danger at LaVista Women's Correctional Facility. On January 18, 2026, four days after this Court heard oral argument, Mrs. Peters, who is 70 years old and non-violent, was assaulted for the fifth time at LaVista Women's Correctional Facility in Pueblo and placed in solitary confinement. Her 29-year-old assailant, who is serving a six-year sentence for aggravated assault, was returned to the prison population. The assailant's redacted judgment of conviction is attached as Exhibit 1. The redacted affidavit for arrest is attached as Exhibit 2. Mrs. Peters' Declaration is attached as Exhibit 3. A photograph of Mrs. Peters' bruise suffered in the assault is attached as Exhibit 4.

¹ References are to the trial court record on file with the Court of Appeals.

3. Placing Mrs. Peters in solitary confinement, while simultaneously returning her assailant to the general population, sent a message that any inmate who assaults Mrs. Peters will not be held accountable.

4. The Court heard oral argument January 14, 2026. By Order dated January 29, 2026, the Court extended briefing for an additional 21 days. Unless this Petition is granted, Mrs. Peters must remain incarcerated in an unsafe environment for a minimum of 63 additional days before the mandate issues, and it could be much longer.

5. As we will demonstrate below, Mrs. Peters meets all constitutional and statutory criteria for release on bond pending appeal. The trial court erred by denying her bond, and she should be released immediately.

JURISDICTION

6. “Colorado’s appeal bond statutes authorize appeal bonds for all courts.” *People v. Lewis* 555 P.3d 576, 579 (Colo. 2024). Once a trial court has refused release pending appeal and the case has been appealed, as is the case here, C.A.R. 9 (a) (effective January 9, 2025) provides that appellate review of terms and conditions of bail or appeal bond are allowed pursuant to the procedures set forth in C.R.S. §16-4-204. Subsection 3 of the statute provides that after review, the appellate court may:

- (a) Remand the petition for further hearing if it determines that the record does not disclose the findings upon which the court entered the order;
or
- (b) Order the trial court to modify the terms and conditions of bail or appeal bond; or
- (c) Order the trial court to modify the terms and conditions of bail or appeal bond and remand for further hearing on additional conditions of bail or appeal bond; or
- (d) Dismiss the petition.

PROCEDURAL HISTORY

7. Before sentencing, Mrs. Peters filed a Motion for Bond Pending Appeal. CF 5108-5113. The trial court did not conduct an evidentiary hearing on the motion. The court denied bond in a cursory written order “for the reasons stated on the record during today’s [sentencing] proceedings, and for the additional reasons stated in the [People’s] response.” CF 5203. The People’s response stated only vague and nonspecific reasons for opposing bond on appeal, namely: (1) Mrs. Peters did not express remorse (CF 5129, paragraph 18); (2) Mrs. Peters’ “prior travel history” and her “disregard” of unspecified court orders indicate she is a flight risk (CF 5129, paragraph 19); and (3) Mrs. Peters has little chance of success on appeal (CF 5130

paragraph 21). The trial court's stated reason for denying bond on appeal was that Mrs. Peters' public criticism of the Mesa County computer voting system made her a danger to the community:

And this is what makes Ms. Peters such a danger to our community. It's the position she held that has provided her the pulpit from which she can preach these lies, the undermining of our democratic process, the undermining of the belief and confidence in our election systems.

Tr. 10/3/24 99:20-24.

And prison is for those folks where we send people who are a danger to all of us, whether it be by the pen or the sword or the word of the mouth.

Tr. 10/3/24 101:14-16

8. On November 17, 2024, Mrs. Peters filed a Motion for Bond Pending Appeal in this case pursuant to C.A.R. 9(b), asking this Court to grant bond directly, without requesting review of the trial court's denial of bond. At the time the motion was filed, C.A.R. 9(b) permitted any appellate court to grant bond on appeal. A three-judge panel consisting of Judges Gomez, Schultz and Lum denied the motion on December 6, 2024, but did not state a reason. The only specific reason ever given for denying Mrs. Peters bond on appeal was the trial court's statements quoted above.

9. On February 8, 2025, Mrs. Peters filed an Application for Writ of Habeas Corpus in U.S. District Court, case number 1:25 cv 425-STV, which requested

issuance of the writ and release of Mrs. Peters on the \$25,000 surety bond that she posted in the trial court. On December 8, 2025, the federal court dismissed the application for writ of habeas corpus without prejudice, holding that it was required to abstain from adjudicating the issue because Mrs. Peters had not yet exhausted her remedies in the Colorado appellate courts. The federal court's order of dismissal is attached as Exhibit 5.

10. This petition is brought pursuant to C.A.R. 9(a), as amended January 9, 2025. Mrs. Peters seeks review of the trial court's denial of bond on October 3, 2024, based not only on the trial court's denial of bond based on her speech, but also because of changed circumstances at the LaVista Women's Correctional Facility.

11. 70-year-old Mrs. Peters, who should be housed in a minimum-security facility with other nonviolent inmates, has now been assaulted five times by younger violent inmates at LaVista. DOC does not have minimum-security facilities for women, but it operates four minimum security facilities for men. The two DOC facilities for women are "mixed," meaning that non-violent first offenders like Mrs. Peters are mixed in the prison population with violent repeat offenders. Please read Mrs. Peters' Declaration attached as Exhibit 3.

12. Pursuant to C.R.S. §16-4-204(3)(b), Mrs. Peters requests as relief an Order from the Court of Appeals directing a different judge in the Mesa County

District Court to preside over her case, and that the trial court release her pending appeal on the conditions of her previous \$25,000 surety bond.

ARGUMENT

13. The trial court justified its harsh sentence as punishment:

Prison is where folks go where punishment is what we're focused on because the crime committed is so significant that anything less would unduly mitigate the seriousness of the same.

Tr. 10/3/24 101:17-19 (underline added). Punishment is not a permissible consideration in determining whether to grant bond pending appeal. A Court may not deny bond to punish the defendant, in addition to imposing a sentence of incarceration.

14. In addition, the government may not prohibit or punish speech unless it contains a true threat of violence, or is directed to inciting imminent lawless action and is likely to incite or produce such action. *Counterman v. Colorado*, 600 U.S. 66, 72-73 (2023); *Brandenburg v. Ohio*, 395 U.S. 444, 447, (1969) (*per curiam*). Likewise, a court may not deny bond pending appeal based on statements that do not incite imminent lawless action. *Leary v. United States*, 431 F.2d 85 (5th Cir. 1970). Here, as in *Leary*, the district court erroneously denied bond on appeal based on Appellant's advocacy, without any evidence that her statements incited imminent lawless action, and were

likely to produce such action. For this reason alone, the order of the district court denying bond pending appeal must be reversed.

15. The district court abused its discretion in denying Appellant's motion for bond pending appeal by basing its decision solely on its conclusion that Appellant had "lied" about the risk of computer manipulation in elections conducted by Mesa County, that this "lie" was somehow dangerous, and that Appellant posed a danger to the community because she was likely to continue expressing that view. The government may not punish a person for harboring and advocating ideas, even ideas that most people consider dangerous. When there is legitimate debate about a subject, it is not a lie to assert either side of the debate. All statements are entitled to First Amendment protection unless those statements "convey a real possibility that violence will follow." *Counterman*, 600 U.S. at 74.

16. Art. II, § 19(2.5)(b)(I) of the Constitution of Colorado requires the court to find that Mrs. Peters is unlikely to flee, and that she does not pose a danger to the safety of any person or the community. There is no evidence in the record that Mrs. Peters ever tried to flee the court's jurisdiction or that she is likely to do so in the future. To the contrary, the record shows that Mrs. Peters traveled frequently out of state during the 31 months she was released on bond, and she always appeared at court when required. Mrs. Peters expressing her opinion that voting systems are

insecure was not a “lie,” and stating such an opinion does not and could not constitute a danger to the community. This Court can find, based on the record before it, that Mrs. Peters is not likely to flee and is not a danger to her community.

17. Article II, section 19 (2.5)(b)(II) requires the court to find that Mrs. Peters’ appeal is not frivolous and that it is not pursued for purpose of delay. The three-judge panel that presided over oral argument indicated by its questions and statements that it was persuaded that many of Mrs. Peters’ appellate arguments had merit. Thus, this Petition satisfies the requirements of Article II, section 19 (2.5)(b), and Mrs. Peters is eligible for bond pending appeal if she meets the nine statutory criteria of C.R.S. §16-4-202(1) (a) through (i).

a. The nature and circumstances of offense and sentence imposed

This is an appeal by an elected county clerk and recorder who believed she was obeying federal law when she misrepresented the identity of a qualified expert to observe what employees of the Secretary of State and Dominion Voting Systems did to Mesa County computers during the so-called “Trusted Build.” All seven felony charges arose out of Mrs. Peters’ misrepresenting Hayes’ identity to have him present during the Trusted Build, after the Mesa County IT Department declined to oversee the process. Mrs. Peters asserted that she needed an expert present to help her investigate the destruction of county election records by the Secretary of State. The

district court ruled that a County Clerk has no authority to investigate the destruction of election records entrusted to her care, but it cited no statute or legal precedent for this proposition. Tr. 10/3/24, 98:15-17.

Appellant was convicted of three counts of attempting to influence a public servant by deceit (F4), and one count of conspiracy to commit criminal impersonation (F6). For the felony counts, the district court sentenced Appellant to a total of 8 years 3 months. On the misdemeanor counts, the court sentenced Appellant to a total of six months in the Mesa County Detention Facility. The total sentence is eight years and nine months.

**b. and c. Family, character, reputation, employment, mental condition,
and ties to community**

On the date of sentencing, Mrs. Peters was 69 years of age and had resided in Mesa County for 20 years. The presentence investigation report confirmed that she is employed and owns her home. CF 4847. Prior to current employment, she served as County Clerk and Recorder. Before winning election to that office, she and her late husband of 35 years operated a construction business. Prior to that, she worked as a flight attendant. She is the gold star mother of a Navy SEAL who died tragically on Memorial Day, 2017. *Id.* The trial court found no mental health concerns. Tr. 10/3/24 101:20.

d. Past criminal record and record of appearance at court proceedings

Mrs. Peters was released on \$25,000 surety bond on March 10, 2022. For 31 months, she faithfully appeared for all pretrial hearings, trial, and sentencing. While on bond, Appellant provided the district court and prosecutors advance notice of all out of state travel. Tr. 10/3/24 6:4-10. The surety consented to continuation of bond pending appeal, as required by C.R.S. §16-4-201(1)(c). CF 4893

e. Any intimidation of witnesses or likelihood of future harm or threats to participants in her trial

There was no evidence of intimidation or harassment of witnesses or of any likelihood that it would occur in the future.

f. Any other charges against Appellant and potential sentences should she be convicted

On February 7, 2022, Appellant attended a pretrial hearing for a co-defendant, Belinda Knisley. The district attorney, Dan Rubinstein, personally accused Appellant in open court of recording the hearing on her iPad. CF 4908 Appellant denied using her iPad to record the proceedings. *Id.* The district attorney brought a contempt proceeding based on allegations that Appellant recorded part of the judicial proceeding on her iPad and then lied to Judge Barrett when she denied it. In his

deposition, the district attorney admitted that he had “no idea” whether the iPad was recording or not. CF 4914.

On February 8, 2022, the district attorney obtained a warrant to seize the iPad. Appellant was convicted by a jury of obstructing police officers during their seizure of the iPad. She was sentenced to four months of home detention, with which she complied fully. CF 4756.

The government kept the iPad for 15 months, but never searched it to see if it contained a recording of the judicial proceeding. After the contempt hearing, the government returned the iPad to Appellant’s counsel, who submitted the iPad to forensic experts. The experts examined the iPad, and determined that it contained no recording of a judicial proceeding on February 7, 2022, and that no such recording had been deleted from the iPad. CF 4919-4920. The Court of Appeals reversed the contempt conviction because the evidence was insufficient. Case number 2023CA1073, unpublished modified opinion issued January 30, 2025.

g. The circumstances of any sentence that has been stayed pending appeal

No sentences were stayed pending appeal.

h. The likelihood that Appellant will commit new crimes during the pendency of appeal

As Judge Tow noted at oral argument, there is no likelihood that Appellant will commit crimes if released on bond. The convictions in this case are for acts committed by Mrs. Peters in her official capacity as the elected Clerk and Recorder of Mesa County. She no longer holds that office, so she cannot re-offend. She had never been accused of any crime prior to the dates of offenses alleged in this case. The district court acknowledged that Appellant had “low LSI scores,” meaning low probability of committing new offenses. Tr. 10/3/24 101:5. Low LSI scores indicate the defendant is low risk to re-offend, not dangerous, and not criminogenic – precisely the statutory considerations under C.R.S §16-4-202.

i. Appellant’s likelihood of success on appeal

This Court knows the likelihood of success on appeal.

CONCLUSION

Mrs. Peters meets the constitutional and statutory criteria for being granted bond pending appeal. The only reason given by the district court for denying bond was that her statements about the voting system made her a danger to the community. This was error.

Pursuant to C.R.S. §16-4-204(3)(b), Mrs. Peters asks this Court to enter an Order directing the trial court to:

- (1) Assign a different judge to Mrs. Peters’ case, 22CR371;

(2) Grant bond pending issuance of the mandate in this appeal, by reinstating \$25,000 cash or surety bond under which Mrs. Peters was released during the proceedings below.

Respectfully submitted January 30, 2026,

s/John Case
John Case #2431

CERTIFICATE OF SERVICE

I certify that, on January 30, 2026, a copy of this Petition with Exhibits 1-4 was electronically served through Colorado Courts E-Filing on opposing counsel of record.

s/ John Case _____