

NOTICE OF APPEAL/
NOTICE OF REQUEST FOR APPELLATE REVIEW

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
Nov 06 2023
SC Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Honorable Frank R. Addy, Jr., General Sessions Judge

Case Nos. 2022-A24-102-00386, 2022-A24-102-00411,
2022-A24-102-00412, 2022-A24-102-00449

The State,

Respondent,

vs.

Stephen Mark Pressley,

Respondent,

In re: Victims Jane Doe 1, Jane Doe 2, and Jane Doe 3,

Appellants.

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Victims appeal and seek appellate review of the trial court's decision to grant Respondent Pressley's (hereinafter "Pressley") Motion to Compel Disclosure of Records of Children's Advocacy Center and Counseling Records. The victims in this matter include Victim (hereinafter "Jane Doe 1") and her two minor children. The oldest minor child is hereinafter named Jane Doe 2, and the youngest minor child is hereinafter named Jane Doe 3. Jane Doe 1 is the victim of a

pending Domestic Violence case against Pressley. The minor children are the victims of Pressley in one (1) pending Criminal Sexual Conduct with minor or Attempt- victim under 11 years of age, 1st degree, and two (2) Criminal Sexual Conduct with minor, or Attempt- victim 11 to 14 years of age, 2nd degree cases. Pressley filed a Motion to Compel Disclosure of Records of Children's Advocacy Center and Counseling Records of Jane Doe 1. The motion referenced all pending charges and requested records of the Children's Advocacy Center, including videotape interviews, interview reports, medical records, counseling records, court advocacy records, and consultation records, as well as Jane Doe I's counseling records.

The trial court addressed the motion in a hearing held on October 26, 2023. The State opposed the release of the records, in part, because the request included records of all three victims. Pressley's counsel informed the court that a few days prior, the State disclosed, pursuant to *Brady v. State of Maryland*, 373 U.S. 83 (1963), that Jane Doe 2 made a statement to the effect that if the defense obtained the requested records, that the case would be lost. Pressley's counsel asserted that the counseling records could contain exculpatory evidence and were subject to disclosure.

Victims, through counsel, opposed the motion to compel and release of records based upon the right to privacy and confidentiality under the South Carolina Constitution and S.C. Code 44-22-100, as well as protections under the Health Insurance Portability and Accountability Act. Victims' counsel further asserted that if the court found that the records should be released contrary to their objection, that only the records of Jane Doe 2, the child who made the statement about potentially exculpatory evidence, should be subject to in camera review for potential release. Victims' counsel relied on the protocol for the release of mental health records to a party as set forth by the Supreme Court in *State vs. Blackwell*, 420 S.C.

127 (2017), in seeking an in camera review of the records by the trial court before release to the defense.

The trial court compelled the release of the mental health records of all three victims to Defendant, without an in camera review, and subject to a confidentiality order. As of the filing of this order, Victims, nor Victims' counsel, have received a proposed or signed order from the motion to compel hearing. This Notice is filed according to Rule 203, SCACR, within ten days of the trial court's oral decision, i.e. actual notice, that was provided on October 27, 2023.

This dispute involves novel issues of law, including whether and to what extent South Carolina Supreme Court's in camera review protocol in Blackwell applies to this pretrial discovery dispute concerning privileged mental health records and whether Victims' state constitutional rights to be treated with fairness, respect and dignity requires, at a minimum, that the Court analyze each victim's rights individually and conclude that a single comment made by one child-victim regarding her own counseling records cannot be deemed to waive the other victims' rights.

The matter of releasing the mental health records for the victims affects their constitutional right to privacy. S.C. Const. art I, § 10. Although a final hearing has not been held in these cases, if the records are provided there will be irreparable harm done to the victims' privacy rights. That harm cannot be undone. The trial court's pending order affects the substantial right of privacy of the victims and effectively prevents an appeal of the decision because the violation to privacy could not be reversed upon appeal. S.C. Code 14-3-330.

Because the Court's ruling infringes upon Victims' constitutional, statutory and common law rights, Victims seek appellate review of this Court's decision to compel disclosure of the victims' privileged records.

Victims appeal and seek appellate review.

Respectfully submitted,

S.C. VICTIM ASSISTANCE NETWORK

s/ Tamika D. Cannon
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November 6, 2023

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PROOF OF SERVICE

I certify that I have served the Notice of Appeal by emailing a copy of it on November 6, 2023 to the South Carolina Court of Appeals to ctappfilings@sccourts.org, and by emailing a copy of it on November 6, 2023, to the attorney of record for the State of South Carolina, Caroline Avant Hughes, and by emailing to the attorney of record for Respondent Pressley, Charles E. Grose, Jr. The Notice was mailed by U.S. first class postage to the Clerk of the General Sessions Court of Greenwood County at 528 Monument Street, Greenwood, SC 29646, on November 6, 2023.

s/ Michelle D. Hughes

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