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Nov 16 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2023-001745

The State,Respondent,

v.

Stephen Mark Pressley,.....Respondent,

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

RESPONSE IN OPPOSITION TO MOTION TO STAY ORDER

Stephen Pressley responds to the appellants' motion to stay the order of the Honorable Frank R. Addy, Jr. dated November 9, 2023. For the reasons set forth below, this Court should deny the motion.

1) This is an appeal by the complaining witnesses in a pending case in the Court of General Sessions for Greenwood County. Appellants “seek direct review, or in the alternative, the issuance of a writ of mandamus, to require compliance with and enforcement of the Victims’ [Bill of Rights], pursuant to S.C. Const. Art. I, § 24 (B).” *See also* S.C. Code Ann. § 16-3-1505, *et. seq.* Amended Notice of Appeal, p. 4. “A victim, as defined in S.C. Code Ann. § 16–3–1510 (Supp.1997), possesses *no* rights in the appellate process. Nothing in our Constitution or statutes provides the ‘victim’ standing to appeal the trial court’s order.” *Reed v. Becka*, 333 S.C. 676, 681, 511 S.E.2d 396, 399 (Ct. App. 1999) (emphasis original).

2) Appellants correctly point out that Rule 246, SCACR “does not contemplate the filing of an appeal by a victim of crime.” Motion, p. 4. The rule does not contemplate the filing of an appeal by alleged victims of a crime because they do not have standing in the appellate process. *Reed, supra*. Additionally, Rule 246 contemplates a complete stay in the lower court during the appeal of a criminal case. Under the circumstances, a complete stay of this case is not practical, as the circuit court could be called on to address unrelated matters, including but not limited to modification of conditions of bond.

3) Appellants also cite to Rule 205, SCACR, which might implicitly authorize the stay of the order and allow the circuit court to manage other matters in the case. Appellants, however, have not established they have standing to bring this appeal.

4) Judge Addy “strongly encourage[d] counsel for the State and the alleged victims to review said records pursuant to their ethical obligations under *Brady* and Rule 3.8 of the Rules of Professional Conduct.: Order, p. 2. n. 2. *Brady* and Rule 3.8, of course, are special responsibilities of prosecutors. The Office of the Attorney General has exhibited the highest ethical standards in this case. This appeal should not prevent that office from fulfilling their special responsibilities.

5) Mr. Pressley, via email, promised not to seek the records that are subject to Judge’s Addy’s order while this appeal is pending. Exhibit A. Appellants, accordingly, cannot show prejudice.

6) Finally, Mr. Pressley is preparing a motion to dismiss this appeal for lack of standing and unauthorized interlocutory appeal. If this Court grants this motion, then the motion to stay would be moot.

(signature on next page)

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
S.C. Bar Number 66063
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Attorney for Stephen Pressley

November 16, 2023
Greenwood, South Carolina

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The State,Respondent,

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Stephen Mark Pressley,.....Respondent,

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

Certificate of Service

I certify that I served this pleading on the State of South Carolina and counsel for the appellants, by email, using counsel’s primary email address listed in the Attorney Information System (AIS), as reflected below, on the date reflected below:

Caroline Avant Hughes, Esquire
S.C. Attorney General's Office
1000 Assembly St.
Suite 501
Columbia, SC 29201
carolineavant@scag.gov

Tamika D. Cannon, Esquire
S.C. Victim Assistance Network
PO Box 1644
Taylors, SC 29687
tamika@scvan.org

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
The Grose Law Firm, LLC
305 Main Street
Greenwood, SC 29646
(864) 538-4466

November 16, 2023
Greenwood, South Carolina

Exhibit A

Subject: Re: Release of records
Date: Monday, November 13, 2023 at 9:54:14 AM Eastern Standard Time
From: Charles Grose
To: Tamika Cannon, Caroline Hughes
CC: Laura Wingard
Attachments: image001.png

I still don't think Rule 246 applies. This appeal was not filed by the State or defendant. If Rule 205 applies, it is implicitly, not explicitly.

Again, I will not seek the records while the appeal is pending. However, I do believe that the circuit court needs to retain jurisdiction to manage other matters. Rule 205 would allow this, but it is not clear whether Rule 246 would.

Best,
Charles

E. Charles Grose, Jr.
The Grose Law Firm, LLC
305 Main Street
Greenwood, SC 29646
Phone: 864-538-4466
Fax: 864-538-4405
Web: GroseLawFirm.com
Email: charles@groselawfirm.com

From: Tamika Cannon <tamika@scvan.org>
Date: Monday, November 13, 2023 at 9:44 AM
To: Caroline Hughes <carolineavant@scag.gov>
Cc: Charles Grose <charles@groselawfirm.com>, Laura Wingard <laura@groselawfirm.com>
Subject: Re: Release of records

I believe that Rule 246(a) SCACR and Rule 205 SCACR require a stay of the order.

Thank you for your responses.



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On Mon, Nov 13, 2023 at 8:39 AM Caroline Hughes <carolineavant@scag.gov> wrote:

Tamika,

I will touch base with my supervisor and hopefully loop in someone from appeals today to discuss this matter. I do agree with Charles that Judge Addy does not seem believe the appeal stays the order given his pretty clear directive to obtain the records. I will let you know once I've gotten some feedback on how to proceed.

Thanks,

Caroline

Caroline Avant Hughes, Assistant Attorney General
Office of the South Carolina Attorney General
Criminal Division-Special Prosecution | Office 803-734-5845
P.O. Box 11549 | Columbia, SC 29211
scag.gov



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From: Charles Grose <charles@groselawfirm.com>
Sent: Friday, November 10, 2023 9:57 AM
To: Tamika Cannon <tamika@scvan.org>; Caroline Hughes <carolineavant@scag.gov>
Cc: Laura Wingard <laura@groselawfirm.com>
Subject: Re: Release of records

Thank you for your email. Please identify which rule you believe stays the order. Rule 241, SCACR applies only in criminal cases. Rule 246, SCACR applies only to appeals filed by criminal defendants. Rule 205, SCACR might, implicitly, authorize a stay.

Judge Addy, apparently, does not think the appeal creates an automatic stay because of his directive and encouragement in footnote 2 of the order.

Regardless of whether there is an automatic stay, Mr. Pressley and I will not seek the records pursuant to Judge's Addy's order while the appeal is pending. We will leave it to you and Ms. Hughes how to address footnote 2 of the order.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

Best,
Charles

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Email: charles@groselawfirm.com

From: Tamika Cannon <tamika@scvan.org>
Date: Friday, November 10, 2023 at 7:34 AM
To: Charles Grose <charles@groselawfirm.com>, Caroline Hughes <carolineavant@scag.gov>
Subject: Release of records

Caroline and Charles:

I hope that you are both well. In light of the Pressley hearing being delayed and the pending appeal, I believe that under the appellate court rules the order to release records is stayed until further order of the court of appeals. Please advise as to whether you agree regarding the stay.

The Grose Law Firm, LLC
305 Main Street, Greenwood, South Carolina 29646

E. Charles Grose, Jr.
Phone: 864-538-4466 Fax: 864-538-4405
E-mail: charles@groselawfirm.com
Web: GroseLawFirm.com

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RECEIVED
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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *State South Carolina v. Stephen M. Pressley*
In re: Victims Jane Doe 1, Jane Doe 2, and Jane Doe 3
Appellate Case No. 2023-001745

Dear Ms. Kitchings:

Please accept this letter as my notice of appearance on behalf of Mr. Pressley.

Enclosed for filing, please find Mr. Pressley's Response in Opposition to the appellants' Motion to Stay Order, along with a certificate of service.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,

s/E. Charles Grose, Jr.
E. Charles Grose, Jr.

cc: Caroline Avant Hughes, Esquire (via email only)
Tamika D. Cannon, Esquire (via email only)