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Nov 27 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The 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.

APPELLANTS' REPLY TO OPPOSITION TO MOTION TO STAY ORDER

Appellant victims herein reply to Respondent's Response in Opposition to Motion to Stay Order, dated November 16, 2023, as follows:

1. Victims are protected by the Victims' Bill of Rights within the South Carolina Constitution. S.C. Art. I, § 24. As defined, "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the person's

spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated. S.C. Const. Art. I, § 24 (C) (2). Appellants suffered physical and psychological harm by Defendant and are victims as defined.

2. Contrary to Respondent Pressley’s claim, Victims have standing to seek enforcement of their rights provided in the Victim’s Bill of Rights, through issuance of a writ of mandamus. S.C. Const. Art. I, § (B) provides “[t]he rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or Circuit Court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section, and a willful failure to comply with a writ of mandamus is punishable as contempt”.

3. Appellants’ Motion to Stay Order is limited in scope to matters related to that specific order. Appellants are not seeking a complete stay of the case, as suggested by Respondent. Rather, as stated in Appellants’ motion, [t]e Order for Release of Counseling Records should be stayed as the matters within the order are directly affected by the appeal. See *Tillman v. Oakes*, 398 S.C. 245, 728 S.E.2d 45 (Ct. App. 20120) (“Under Rule 205, the lower court is deprived of the power to proceed with matters that are affected by the appeal, but is specifically allowed to proceed with matters not affected by the appeal.”).

4. The Attorney General’s Office promptly reported the potential exculpatory disclosure to defense counsel. In doing so, the Office complied with *Brady* and Rule 3.8 of the Rules of Professional Conduct. Neither *Brady* nor Rule 3.8 require the Office of the Attorney General to actively pursue evidence under these circumstances. The duty to report it has been met and any additional efforts to review potential evidence is the responsibility of Respondent Pressley’s

counsel. This responsibility has been met by counsel's filing of the Motion to Compel Disclosure of Records of Children's Advocacy Center and Counseling Records.

5. The Stay as requested by Appellant is necessary to ensure that the Office of the Attorney General fulfills all of its responsibilities, including those owed to the victims in this case. Although defense counsel stated that he would not seek the mental health records while the appeal is pending, the issue remains whether the Attorney General's office is required to request the records pursuant to the trial court's order. Without a Stay, it is unclear whether the Attorney General's Office is required to obtain the records while the appeal is pending. This duty is even more ambiguous, given the instructions of the trial court directing the State "to obtain the records in the event the appellate courts needed to review them in camera". Exhibit A. Whether the mental health records should be released at all to the State or defense is the issue at trial in this appeal/request for appellate review. If the stay is not granted and the records are obtained by the State, then the issues on appeal will become moot.

WHEREFORE, Appellants hereby re-iterate all claims made in the Motion to Stay and seek denial of relief sought in opposition to said motion.

Respectfully submitted,

S.C. VICTIM ASSISTANCE NETWORK

s/ Tamika D. Cannon
Tamika D. Cannon, Bar #72834
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November 14, 2023



Michelle Hughes <michelle@scvan.org>

Exhibit A

1 message

Tamika Cannon <tamika@scvan.org>
To: Michelle Hughes <michelle@scvan.org>

Mon, Nov 27, 2023 at 3:18 PM

From: Addy, Frank R. <faddyj@sccourts.org>
Sent: Thursday, November 9, 2023 11:32 AM
To: Addy, Frank R. Law Clerk (Kennedy Britt) <faddyjc@sccourts.org>; Charles Grose <charles@groselawfirm.com>; Yates Brown <ybrown@greenwoodsc.gov>; Caroline Hughes <carolineavant@scag.gov>; Jason Bridges <JasonBridges@scag.gov>; Laura Wingard <laura@groselawfirm.com>; Tamika Cannon <tamika@scvan.org>; Copeland, Chastity <ccopeland@greenwoodsc.gov>; Amber Oshield <aoshield@greenwoodsc.gov>; kw alker@greenwoodsc.gov; GeJuan West (gwest@greenwoodsc.gov) <gwest@greenwoodsc.gov>
Cc: Addy, Frank R. Secretary (Freda Sartin) <faddysc@sccourts.org>
Subject: RE: State v. Stephen Pressley

All,

The order only has a few changes. First, Charles is clearly correct in that the names need to be listed in the order so that the relevant agencies know what records to release. I did, however, direct that it be filed under seal so the general public won't have access to the minors' identities.

Second, I went ahead and directed the State to obtain the counseling records in the event the appellate courts needed to review them in camera. This will also expedite provision or review of the records depending on what the appellate courts do. I also suggested that the State should undertake to review them for obvious reasons.

Third, I directed that the case be continued from the December term while all this plays out.

Hope everyone has a good weekend.

Frank R. Addy, Jr.

Resident Judge, 8th Judicial Circuit

Greenwood County Courthouse

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*****PLEASE NOTE THAT I DO NOT RECEIVE EMAIL ON MY CELL PHONE*****

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CERTIFICATE OF SERVICE OF MOTION TO STAY ORDER

THE STATE OF SOUTH CAROLINA
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The State, Respondent,

vs.

Stephen Mark Pressley, Respondent,

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

PROOF OF SERVICE

I certify that I have served the Reply to Respondent’s Opposition to Motion to Stay Order by emailing a copy of it on November 27, 2023 to the South Carolina Court of Appeals to ctappfilings@sccourts.org, and by emailing a copy of it on November 27, 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 #114, Greenwood, SC 29646, on November 27, 2023.



Michelle D. Hughes
OVC Legal Access Coordinator
South Carolina Victim Assistance Network
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Columbia, SC 29221