



December 18, 2024

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SC Court of Appeals

The S.C. Court of Appeals
Post Office Box 11626
Columbia, South Carolina 29211

Re: The State v. Stephen M. Pressley (In re: Victims Jane Doe 1, Jane Doe 2,
and Jane Doe 3)

Appellate Case No. 2023-001745

Dear Clerk:

This letter is being submitted following this Court's instructions by Order dated February 9, 2024, to immediately notify the court upon the issuance of an order. The trial court judge has conducted a hearing on Appellant's Motion to Stay and signed the attached order. Appellants seek to move forward with the appeal and judgment.

Per order dated May 29, 2024 the Initial Brief is due within 30 days of the trial judge's signed order. Appellants respectfully request a thirty day extension due to workloads and the filing of a related Notice of Appeal on December 13, 2024. This Court may consolidate the two appeals, in which event all issues would need to be addressed within one brief.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tamika D. Cannon".

Tamika D. Cannon
Attorney for Victims
SC Victim Assistance Network
P.O. Box 1644
Taylors, SC 29687

/tdc



Legal Services Program

cc:

Mark Reynolds Farthing, Esquire

Caroline Avant Hughes, Esquire

Charles Grose, Jr., Esquire

Sarah Ford, Esquire



CERTIFICATE OF SERVICE

Appellate Case No. 2023-001745

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SC Court of Appeals

The State and Stephen Pressley,

Respondents,

v.

Victims,

Appellant.

CERTIFICATE OF SERVICE

I certify that I have served Appellant's letter to Court of Appeals Clerk dated December 18, 2024 by emailing a copy of it on December 18, 2024 to the South Carolina Court of Appeals to ctappfilings@sccourts.org; and by emailing a copy of it on December 18, 2024 to:

Mark Reynolds Farthing, Esquire
Caroline Avant Hughes, Esquire
Charles Grose, Jr., Esquire
Sarah Ford, Esquire

Michelle Hughes
Victim Access Coordinator
South Carolina Victim Assistance Network
P.O. Box 212863
Columbia, SC 29221
(843) 929-4000

THE STATE OF SOUTH CAROLINA)

COUNTY OF GREENWOOD)

THE STATE)

vs.)

STEPHEN PRESSLEY)
_____)

IN THE COURT OF GENERAL SESSIONS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No.
2022-A24-101-00386
2022-A24-102-00411, 00412, 00449

**Second
Order for Release of Counseling Records**

THIS MATTER IS BEFORE THE COURT on remand from the Court of Appeals, for this Court “to review the challenged records in camera,” hear the alleged victims’¹ motion to stay this Court’s order dated November 9, 2023, and “issue an order setting forth findings of fact and conclusions of law.” *See State v. Pressley*, Appellate Case No. 2023-001745.

PROCEDURAL HISTORY

This Court’s order dated November 9, 2023 sets forth the factual and procedural background leading up to the Court issuing that order. This Court denied the alleged victims’ motion to reconsider the order of November 9, 2023, and they appealed to the Court of Appeals of South Carolina. On November 15, 2023, the alleged victims moved the Court of Appeals for an order staying this Court’s order dated November 9, 2023. On November 16, 2023, Mr. Pressley filed a Response in Opposition to Motion to Stay Order. On February 9, 2024, the Court of Appeals issued an order remanding this matter to this Court.

¹ This Court’s order dated November 9, 2023 contained the names of the alleged victims as it was necessary for the providers to know the identities of the patients in order to produce the records. The Court directed that the November 9, 2023 order be filed under seal to protect the identity and privacy of the alleged victims. Since the Court obtained and reviewed the records, there is no need to include the names of the alleged victims in this order; nor is there a need to file this order under seal as the names of the alleged victims are not included.

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Following the remand, this Court obtained and reviewed the challenged records, reviewed materials submitted by the Attorney General's Office, and reviewed the testimony of the alleged child victims in *S.C. Department of Social Services v. Pressley, et. al.*, Case No. 2023-DR-24-00033.² On November 6, 2024, this Court convened a hearing. Caroline Avant Hughes of the Attorney General's Office represented the State. Charles Grose represented Mr. Pressley. Tamika D. Cannon and Sarah Ford of the South Carolina Victim's Assistance Network represented the alleged victims.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After considering the arguments of counsel and reviewing all the filings in Appellate Case No. 2023-001745, the challenged records of the alleged victims, the submissions from the Attorney General's Office, the testimony of alleged child victims in Case No. 2023-DR-24-00033, this Court makes the following findings of fact and conclusions of law.

1) Pursuant to *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713, 726 (2017), at the hearing on October 26, 2023, this Court inquired of the alleged victims whether or not they consented to releasing the challenged records. Through counsel, they informed the Court they did not consent to the release of the records.

2) Pursuant to the Court of Appeals remand order and *Blackwell*, this Court obtained and reviewed the challenged records.

² On February 20, 2024, this Court issued a protective order regarding the transcripts of this testimony. Counsel for the alleged victims initially objected to the Court reviewing this transcript, and a hearing was set for earlier this year to address their objection. Shortly before the hearing, the alleged victims withdrew their objection, the Court reviewed the records again taking into account the testimony from the family court, and identified additional potentially relevant documents.



3) After reviewing the records, this Court finds the challenged records contain information favorable to Mr. Pressley that could be used to impeach the alleged victims. *See Blackwell, supra.*

4) Pursuant to *Blackwell*, at the November 6, 2024 hearing, this Court once again inquired of alleged victims whether or not they consented to releasing the challenged records. Through counsel, they informed the Court they have obtained copies of their records and requested the Court identify the portions of the challenged records that are discoverable so they could decide on a page-by-page basis whether to consent to the release of the records. However, counsel for the alleged victims has not identified any specific record for which they consent to be released. Accordingly, this Court finds alleged victims continue to object to the release of the challenged records.

5) The State not only desires to comply with its obligations under *Brady v. Maryland*, 373 U.S. 83 (1963) and its special obligations of prosecutors under Rule 3.8 of the South Carolina Rules of Professional Conduct, but also has acted in these proceedings in a manner consistent with those obligations.

6) Based on the review of the records, this Court finds the records contain materials that the State might want to use to rehabilitate the alleged victims at trial, and the State requested this Court to disclose those portions of the records.

7) Regarding alleged victims, this Court finds "that the patient[s]' care and treatment [and] the nature and extent of [their] mental illness or emotional condition are reasonably at issue in [these] proceeding[s]." S.C. Code Ann. § 19-11-95(D)(1).



8) Although state law generally protects the confidentiality of mental health records,³ S.C. Code Ann. § 44-22-100(A)(2) authorizes disclosure when “a court directs that disclosure is necessary for the conduct of proceedings before the court and that failure to make the disclosure is contrary to public interest.”

9) Sections 19-11-95 and 44-22-100, accordingly, authorize this Court to order disclosure of the records. Under the circumstances of this case, failure to disclose the records would be contrary to the public interest. *See also, Blackwell*, 420 S.C. at 801 S.E.2d at 726 (the right to confront a witness “may supersede a witness’s rights or statutory privilege”).

10) This Court and counsel for the State fully complied with the Victim’s Bill of Rights. S.C. Const. Art. 1, § 10; S.C. Code Ann. § 16-3-1505. *See also State v. Price*, 441 S.C. 423, 895 S.E.2d 633 (2023) and *Reed v. Becka*, 333 S.C. 676, 681, 511 S.E.2d 396, 399 (Ct. App. 1999)

11) The alleged victims’ motion to stay this order should be granted.

THEREFORE, IT IS ORDERED that, having completed the *Blackwell* review, the counseling records of the alleged victims, which the Court has identified as being pertinent to witness credibility, possible impeachment, and/or which could aid Mr. Pressley in his defense, shall be disclosed to counsel for Mr. Pressley and the State, pursuant to a protective order. IT IS FURTHER ORDERED that no party to this action shall disclose any of the records or information released in any manner whatsoever, other than in the course of the proceedings in this matter. Mr.

³ Counsel for the three alleged victims relies on the state constitutional right to privacy found in Article I, Section 10 of the South Carolina Constitution; however, “The State unquestionably has the authority to limit the right of privacy.” *Planned Parenthood S. Atl. v. State*, 438 S.C. 188, 216-17, 882 S.E.2d 770, 785 (2023). Sections 19-11-95 and 44-22-100 both authorize courts to authorize release of mental health and counseling records under certain circumstances. The Health Insurance Portability and Accountability Act allows providers to disclose medical and mental health records “[i]n response to an order of a court.” 45 C.F.R. § 164.512(e).

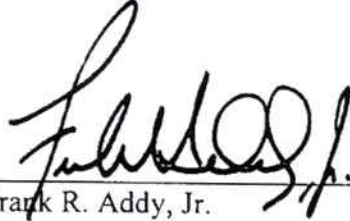


Pressley may view the materials in the presence of his counsel, but he shall not have a copy of the records. Any party desiring to use the records at trial shall inform the presiding judge prior to introduction of the records so that trial court may rule on admissibility.

Upon the outcome of any appeal, the Court shall provide the relevant records under *Blackwell* to all counsel of record, and the Court will file under seal a complete copy of all counseling records reviewed. Absent a consent order or other order of the Court, these records should be made available for the trial judge's review well in advance of trial.

IT IS FURTHER ORDERED that this order shall be stayed until the final judgement in the alleged victims' appeal in Appellate Case No. 2023-001745.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Presiding Judge, Eighth Judicial Circuit

December 12, 2024
Greenwood, South Carolina