

21514

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

RECEIVED

DEC 08 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ZINAH DAMARIS JENNINGS,

APPELLANT

APPELLATE CASE NO. 2012-212947

SUPPLEMENTAL RECORD ON APPEAL

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1 understand postpartum. She didn't understand what her  
2 body was going through and the impact motherhood was  
3 having on her.

4 I did research. I knew something was wrong.  
5 When I could not get any help, I called Judge McCullough  
6 personally. I was told -- asked -- was she a danger to  
7 herself?

8 I felt she was a danger to herself and as a  
9 result could have been -- perhaps because she wanted to  
10 save her son -- at some sacrifice to herself. She had  
11 two accidents. Both could have killed her.

12 I have never, ever believed that Zinah would  
13 hurt <sup>Child-</sup>. I always felt that she wanted to protect him  
14 from what she considered harmful. There was a lot of  
15 things that could not have been said in this courtroom.  
16 There were a lot of things that I wanted to say and  
17 could not say to your jury.

18 I ask that you have mercy and give this young  
19 woman an opportunity to heal so that she can reveal to  
20 us where my grandson is. She is not well and at this  
21 point without her, <sup>Child</sup> could be anywhere. I believe he  
22 is there. I will never stop looking for him, and I just  
23 ask that you have mercy.

24 THE COURT: Thank you. Thank you,  
25 Ms. Jennings.

1           MR. PRIDE: Judge, in conclusion I want to say  
2 that I know -- I know you and I know that just because  
3 this is a high profile case and that as a result of it,  
4 a lot of media and press has been disseminated. I know  
5 that is just a factor that will not enter into your  
6 judgment when it comes to sentencing.

7           I do believe that you will temper justice with  
8 mercy. I do believe that you understand this case  
9 fully. I know, Judge, that you have been with this  
10 case, just as I have, for a long period of time. I just  
11 don't -- I just appeal to you. Please don't give my  
12 client a lot of time in jail. Thank you very much.

13           THE COURT: Thank you. Thank you, Mr. Pride.

14           Ms. Zinah Jennings, is there anything you  
15 would like to say?

16           THE DEFENDANT: No, sir.

17           MS. GARFIELD: Judge, can I briefly?

18           THE COURT: Yes, ma'am.

19           MR. PRIDE: Judge, the State doesn't have a  
20 right to allocute. Now, if they were going to allocute,  
21 they should have spoke first. If they didn't speak  
22 first, then they have deemed to waive it.

23           They don't have a right to come behind me and  
24 ask you for a maximum sentence or allocute in this case.  
25 If they wanted to do that, they come first; and then I

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1 come behind them.

2 If they didn't take advantage of that, then  
3 they have waived it; and I don't think it's fair to let  
4 them sit up here now and throw bricks and hot water on  
5 this case.

6 MS. GARFIELD: Your Honor, while Mr. Pride was  
7 speaking, my co-counsel came and told me something that  
8 the family would like me for to convey, the family being  
9 the father of Child

10 THE COURT: By way of victim impact?

11 MS. GARFIELD: Yes, sir.

12 THE COURT: I would be glad to hear from  
13 anyone as far as victim impact is concerned.

14 MS. GARFIELD: Roderick Mitchell, who is the  
15 father of Child, and his family do not wish to  
16 speak. They are not able to. They asked me to relay to  
17 you to please give justice to Child and please give  
18 Ms. Jennings the maximum sentence.

19 THE COURT: Thank you. Thank you, Solicitor.

20 MR. PRIDE: Judge, Zinah's mother would like  
21 to speak once more, please.

22 THE COURT: Certainly. One moment. I need a  
23 sentencing sheet. I would be glad to hear from you,  
24 Ms. Jennings.

25 MS. JENNINGS: Judge, this is no time for

1 anger. I'm very emotional. I feel like the Mitchell  
2 family have been spared. Perhaps they are victims.  
3 They have not seen <sup>Child</sup> and I haven't either.

4 But Mr. Mitchell deceived my daughter.  
5 Mr. Mitchell battered my daughter in the presence of her  
6 infant on the day she arrived home. I was called. He  
7 was in handcuffs.

8 She had been bruised. Her lip was busted.  
9 The baby was just two days old. There were repeat  
10 incidents at their home. And for them to ask for the  
11 maximum sentence and take no responsibility, they were  
12 not there.

13 She reached out to them repeatedly. She  
14 attended the birthday party. She wasn't invited. He  
15 destroyed her vehicles. He was jealous. He was  
16 possessive, used her as a baby-sitter.

17 She was in love for the first time, for the  
18 first time, 21 years old. All I'm saying is that I  
19 think consideration of their desire for my daughter's  
20 punishment is unfair --

21 THE COURT: Thank you --

22 MS. JENNINGS: -- if that makes sense.

23 THE COURT: Thank you, Ms. Jennings. I didn't  
24 mean to cut you off right there at the end. I thought  
25 you had finished. If I did cut you off, you may restate

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1 anything.

2 MS. JENNINGS: (Shakes head.) (Indicating  
3 negative response.)

4 (Pause.)

5 THE COURT: Well, I take into account all or  
6 many, many factors in fashioning a sentence that I think  
7 is appropriate in this or any case. I take into account  
8 the victim. The victim listed in the indictment is <sup>Child</sup>

9  
10 I don't recall his specific date of birth. I  
11 apologize for my lack of memory on that one note. I  
12 believe he was about 18 months old, and his date of  
13 birth is 28 June of 2010, a little over two years ago.

14 I also do not know where <sup>Child</sup> is. I  
15 know where his pacifier is. I have a couple of  
16 photographs of him. I know where his blanket is, and I  
17 know where his blood is at. I know those things.

18 I know in all of this, in talking about  
19 whether it's the Mitchell family or the Jennings family,  
20 there is one innocent person, one blameless person, and  
21 one person who cannot fend for himself in the world we  
22 live in; and that's <sup>Child</sup>

23 A missing person is a tough case to start  
24 with. If it was a missing adult, we are all tracked  
25 electronically with cameras and gassing up our cars

1 and buying our groceries and checking the bank account;  
2 but you can't track <sup>Child</sup> like that. He can't gas up a  
3 car, can't use a bank account. He can't use an E.B.T.  
4 card.

5 I don't take into account the victim's family  
6 says, Give the person the max. I take it into account,  
7 but that doesn't guide me in my decision, nor do I take  
8 into account or it doesn't force my decision to give  
9 her the minimum, although the sentence is zero to ten  
10 years.

11 I have often read and always heard that one of  
12 the profound characteristics is the maternal instinct,  
13 the maternal, protective instinct; that the mother would  
14 protect her child from evil or harm, even to the extent  
15 of giving up her own life.

16 You know that sense of protection. You can  
17 see it in this courtroom quite frankly. It never goes  
18 away as your child ages. You can see that in  
19 Ms. Jocelyn Jennings in protecting her child and wanting  
20 also to protect her grandchild. It's probably one of  
21 the strongest characteristics of humanity, of womanhood,  
22 a maternal, protective instinct.

23 The jury has found her guilty of unlawful  
24 conduct towards a child. I read back through the  
25 statute, the three sections: That she placed <sup>Child</sup> at

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1 unreasonable risk of harm affecting the child's life,  
2 physical or mental health, or safety.

3 She unlawfully or maliciously did or caused to  
4 be done any bodily harm to the child so that the life or  
5 health of the child is in danger or likely to be in  
6 danger; or that she willfully abandoned the child, a  
7 year and a half old.

8 There's a number of reasons, a number of  
9 theories, of sentencing. Deterrence is one, general  
10 deterrence, when a person is sentenced for a crime. It  
11 is an example to induce others in the public from  
12 refraining from such criminal conduct.

13 There is specific deterrence and it punishes  
14 an offender to persuade that offender from committing a  
15 crime in the future. There is incapacitation, in other  
16 words, lock a person up for as long as possible to  
17 protect society and other particular victims during that  
18 period of time in which they are incarcerated. There is  
19 rehabilitation and, of course, retribution.

20 I do take into account, Mr. Pride, your  
21 excellent manner in which you have represented your  
22 client, the fact of her mental illness. I have read the  
23 judge's report. I have it up here from the probate  
24 judge, the testimony of Dr. Moustafa.

25 I considered that as part of mitigation in my

1 sentencing. I do not take into account the Atlanta  
2 prostitution arrest. I take into account that she is 23  
3 years old and has no prior criminal history.

4 I take into account all the statements made  
5 before the Court by Ms. Jocelyn Jennings concerning the  
6 fact that Zinah came home with the child as a loving  
7 mother, became different, depressed, needed help, which  
8 I commend her for trying to get her child help, doing  
9 research.

10 I have never been guided by or blinded by  
11 cameras and reporters one way or the other. However, I  
12 do have a responsibility to fulfill in sentencing  
13 Ms. Jennings. I take my oath, I hope, as serious as the  
14 jury takes theirs.

15 On Indictment 2012-GS-40-2067, Zinah Damaris  
16 Jennings, the defendant having been found guilty by the  
17 jury of unlawful conduct towards a child, taking into  
18 account all the facts and circumstances of the case and  
19 the history and background of the defendant, the age of  
20 the victim, the defendant is committed to the State  
21 Department of Corrections for a determinate term of ten  
22 years.

23 She is to be given credit for time served by  
24 operation of law, 24-13-40. I recommend that she  
25 receive all appropriate and available mental health

1 counseling during the course of her incarceration.

2 Good luck to you, Ms. Jennings.

3 Thank you very much, Mr. Pride, for the  
4 excellent service you rendered to your client.

5 Madame Court Reporter, I have some jury notes  
6 to be made a part of the record. Also, if you would  
7 mark the transcript and the statute as Court's Exhibits.

8 Thank you.

9 (Court's Exhibit Number 9-11 are marked for  
10 purposes of the record.)

11 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

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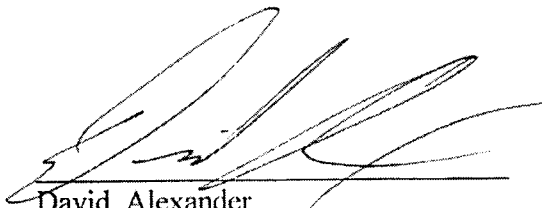
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## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 8th, 2014



David Alexander  
Appellate Defender

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Division of Appellate Defense  
PO Box 11589  
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ATTORNEY FOR APPELLANT

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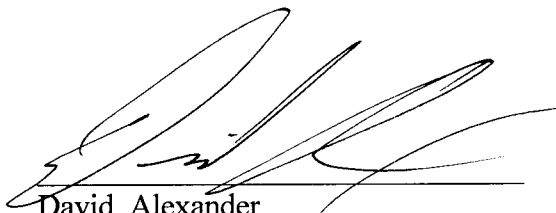
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**SC Court of Appeals**

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**SC Court of Appeals**

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Richland County

R. Knox McMahon, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

V.

ZINAH DAMARIS JENNINGS,

APPELLANT

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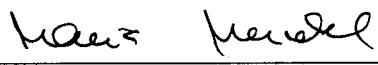
**SC Court of Appeals**

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the Supplemental Record on Appeal in the above referenced case has been served upon William M. Blich, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 8th day of December, 2014.

  
\_\_\_\_\_  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 8th day of December, 2014.

 (L.S.)  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: July 3, 2023.