

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
THE STATE)
)
vs.)
)
Miguel Cano,)
)
DEFENDANT)

THIRTEENTH JUDICIAL CIRCUIT
IN THE COURT OF GENERAL SESSIONS

Indictment: 2017GS2303939A

ORDER DENYING MOTION TO
RECONSIDER AND MOTION TO TRANSFER

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CLERK OF COURT
GREENVILLE COUNTY, SC
DP

SC Court of Appeals

This matter comes before the Court on Defendant's Motion to Reconsider the Court's May 23, 2017 order denying Defendant's Motion for Review and Remand to Family Court, and on Defendant's Motion to Transfer to Family Court.

The Honorable Alex Kinlaw, Jr., transferred jurisdiction over this matter from Family Court to Circuit Court in an order dated January 28, 2017. Defendant filed a Motion to Reconsider the Order Waiving Jurisdiction, a Motion for Stay of the Order Waiving Jurisdiction, and a Motion to Dismiss the State's Motion to Waive Jurisdiction, all of which were denied by Judge Kinlaw on March 6, 2017. On March 14, 2017, in General Sessions, Defendant filed a Motion for Review and Remand to Family Court. This Court denied that motion without a hearing in an order dated May 23, 2017, and in a subsequent June 21, 2017 order, denied Defendant's Motion for Reconsideration and request for a hearing. This Court, however, did direct the parties to find a "mutually agreeable time" for Defendant to proffer evidence and testimony with regard to said motion. On August 7, 2018, Defendant filed a separate Motion to Transfer to Family Court.

Pursuant to the June 21, 2017 order, a hearing was held on August 24, 2018 to allow Defendant to proffer evidence in support of his motions. Defendant proffered evidence that would have been presented to this Court had the Court determined it had a legal basis to review the Family Court's decision to transfer jurisdiction of this matter to Circuit Court.

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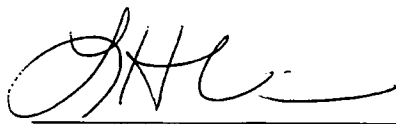
[Circular Court Seal]
Paul B. Waldman
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 11-19-2018

did not consider the proffered evidence in ruling on the Defendant's motions for review and remand. Additionally, Defendant proffered new psychological evidence in support of his August 7, 2018 Motion to Transfer to Family Court.

After consideration of the arguments and submissions of counsel, this Court finds no legal basis to support Defendant's request for this Court to sit in review of the decision of the Family Court and denies Defendant's motions for review and remand. Moreover, this Court finds it is without legal authority to transfer the case back to Family Court based on the new psychological evidence presented. Notwithstanding this Court's lack of legal authority to sit in review of the Family Court's Order, this Court finds there is not sufficient evidence to warrant returning the case to Family Court for further review. Based on this Court's prior rulings, as set forth herein, and in accord with the following authorities, this Court hereby denies Defendant's Motion to Reconsider the Order Denying Defendant's Motion for Review and Remand to Family Court, and also denies Defendant's Motion to Transfer to Family Court: *State v. Rice*, 401 S.C. 330, 333, 737 S.E.2d 485, 486 (2013); *State v. Pittman*, 373 S.C. 527, 559, 547 S.E.2d 144, 161 (2007); *State v. Avery*, 333 S.C. 284, 293, 509 S.E.2d 476, 481 (1998); *State v. Lockhart*, 275 S.C. 160, 267 S.E.2d 720 (1980); S.C. Code Ann. §63-19-1210(1); S. C. Code Ann. §14-8-200(A).¹

IT IS SO ORDERED.

Dated: 11/5/18
Greenville, South Carolina



Letitia H. Verdin
Circuit Judge, Thirteenth Judicial Circuit

¹ On September 4, 2018, Defendant filed a Motion to Reconsider Order Denying Defendant's Motion for Review and Remand. This motion asked the Court to reconsider its prior May 23rd and June 21st orders based on the expert testimony proffered at the August 24th hearing. Defendant also filed on September 4, 2018, a Notice of Intent to Appeal and Petition for Supersedeas, notifying the Court of his intention, pursuant to Rule 241, SCACR, to file an appeal as well as a petition for Supersedeas should the Court deny his motions relating to review and remand and his Motion to Transfer.