

IN THE CIRCUIT COURT OF RANKIN COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VS.

CAUSE NO. 24-34169-JA

CARLY MADISON GREGG

DEFENDANT

**MOTION FOR NEW TRIAL, OR IN THE ALTERNATIVE,
JUDGMENT NOTWITHSTANDING THE VERDICT**

COMES NOW the Defendant, Carly Madison Gregg (hereinafter referred to as "Carly" or "Defendant") by and through her attorneys of record, and files this her *Motion for New Trial, or in the Alternative, Judgment Notwithstanding the Verdict*, and in support thereof would show unto the Court the following facts and matters, to wit:

1.

Following her criminal trial, Carly was convicted of First Degree Murder, Attempted Murder, and Tampering with Evidence. The jury announced their verdict on Friday, September 20th, 2024.

2.

Pursuant to Rule 25.1 of the Mississippi Rules of Criminal Procedure, Carly moves this Court for a new trial.

3.

Specifically, a new trial is required in this matter based on the following factors:

(a) it is in the interests of justice;

(b) the verdict is contrary to the weight of the evidence presented at trial;

- (c) New evidence and material has recently been discovered which probably would produce a different result at a new trial; and by reasonable diligence, such evidence could not have been discovered sooner;
- (d) witnesses necessary to establish Carly's defense were improperly excluded from testifying at the trial;
- (e) witnesses were improperly restricted in the testimony they could provide in Carly's defense; and,
- (f) Carly did not receive a fair and impartial trial.

4.

A new trial is in the interests of justice for several reasons. Carly was not tried by a jury of her peers. Carly was fifteen (15) years old when her trial commenced on September 16th, 2024. Mississippi requires a person to be age twenty-one (21) and older to serve on a jury, despite the fact that a person can legally register to vote at age of eighteen (18). The juror age prerequisite is founded on the understanding that with age comes maturity. Mississippi believes that only a person twenty-one (21) or older possesses the maturity necessary to make decisions about the life of another. However, Mississippi also holds that a fourteen (14)/fifteen (15) year old possesses the maturity necessary to make decisions about plea offers, understand the nature of the alleged offenses, comprehend the nature of the charges against them, effectively participate in their defense at trial, and face the same lifelong sentences of an adult. However, these two fundamentally opposing legal standards cannot be rectified. This contradiction in

law constitutes a new trial, or in the alternative, a judgment notwithstanding the verdict.

5.

The undisputed evidence at trial of Carly's mental illness, loving relationship with her mother and stepfather, absence of prior criminal charges, absence of prior violence, good school record, maternal family support, community support, the victim's testimony that Carly was not in her right mind and did not recognize him at the time of the offense, and the State's admission to an absence of motive to commit the alleged crimes do not support the verdict or sentence in this case. Therefore, this matter calls for a new trial, or in the alternative, a judgment notwithstanding the verdict.

6.

On Wednesday, September 26th, 2024, a reporter for Fox 40/WLBT informed defense counsel that Kevin Gregg, Carly's biological father, had given an interview, part of which would be aired later that night. In an unaired portion of his interview, Kevin Gregg disclosed that Carly was placed in equestrian therapy as a young child due to experiencing auditory hallucinations. Defense counsel contacted the attorney representing Ashley Smylie in her civil proceedings against Kevin Gregg regarding documentation or information that might be helpful in Carly's criminal trial. However, no such documentation was identified or produced. Kevin Gregg refused to cooperate in Carly's defense, refused to talk to the State, refused to talk to the mental health professionals evaluating Carly, and refused to come to any pretrial hearings or a single day of Carly's criminal trial. This new information

supports Dr. Clark's diagnosis of unspecified schizophrenic disorder and is likely to lead to a different result at a new trial. As such, Carly is entitled to a new trial.

7.

Carly timely disclosed her witness list to the State pursuant to the timeline established by the Mississippi Rules of Criminal Procedure. Carly produced her witness list to the State on September 3rd, 2024, thirteen (13) days prior to trial. Carly's witness list was comprised of nine (9) total witnesses, and one (1) witness would only testify at a pre-trial hearing. All of the witnesses listed were known to the State prior to the production of the witness list.

8.

The *State's Witness List (MEC #234)* was produced to the Defendant on September 8th, 2024, eight (8) days prior to trial. It was comprised of fifty-five (55) witnesses. The *State's Amended Witness List (MEC #239)* was produced to the Defendant on September 9th, 2024, seven (7) days prior to trial. It was comprised of fifty-seven (57) witnesses. However, it was the *Defendant* the Court found had engaged in a willful discovery violation motivated by the desire to gain a tactical advantage at trial. As a result, the Court struck two (2) of the Defendant's witnesses and restricted the testimony of the remaining defense witnesses. The two (2) witnesses struck by the Court were both immediately family members of the Defendant, both of whom had both spoken to law enforcement as early as March 19th, 2024 and March 22nd, 2024. Both witnesses were present during at least one of law enforcement's searches of the crime scene. The State never contacted either witness, never requested a continuance, and interviewed several of the

defenses remaining witnesses. Moreover, this case was tried less than four (4) months following the indictment and six (6) months after the incident occurred. There was sufficient time for either the Defense or the State to gain a tactical advantage at trial. Important trial evidence was still being produced in response to subpoena in the weeks leading up to trial.

9.

The Court's finding of a willful discovery violation is not supported by Mississippi case law. The radical sanction imposed by the Court was improper, constitutes a constitutes a gross violation of Carly's 6th Amendment Rights and Due Process, and merits reversal on appeal. Carly should not be placed in an adult prison, or have to wait, for the year or longer that it will take for the appellate courts to address this issue. Justice delayed is justice denied.

10.

Due the extensive pretrial media coverage, the improper statements made by the State during the live-streamed pretrial hearings, and highly prejudicial and improper testimony from Rebecca Kirk, Carly's counselor, regarding a book Carly's wished to read Carly was denied a fair and impartial trial. Rebecca Kirk's testimony regarding Carly's comment about wishing to read Dostoevsky's Crime and Punishment was not disclosed as an oral statement by the State in their *Amended Witness*. This testimony was of no importance in to the facts in Carly's case and was elicited for the sole purpose of prejudicing the jury. This fact is highlighted by the State's erroneous belief that Mrs. Kirk was concerned about Carly reading this book as the title was underlined in her records, without realizing that it was simply

grammatically proper to underline the titles of novels. This testimony was elicited during the state's rebuttal and was one of the last statements the jury heard prior to beginning their deliberations.

11.

Dr. Pickett's testimony regarding his diagnosis/undiagnosis of Kevin Gregg, Carly's biological father, was improper, unethical, and highly prejudicial at trial. Pursuant to the ethical guidelines established by of the American Psychiatric Association, the Goldwater Rule prohibits and enjoins psychiatrists from offering opinions about the mental health of someone they have not personally examined. Dr. Pickett was the last witness called during the State's rebuttal, and his was the last testimony the jury heard prior to beginning their deliberations. Dr. Pickett's did not possess the proper expertise necessary to testify in this matter due to his inexperience with evaluating children and adolescence, with forensic evaluations in general, and his inadequate background in child and adolescent psychiatry. Carly is entitled to a new trial based on the unfair and improper trial she received.

12.

The Court erred in refusing the Defendant's requests to instruct the jury to return a verdict of not guilty made at the close of the State's evidence and at the close of the evidence presented by the Defendant and erred in denying Defendant's request for a peremptory instruction.

13.

The Court erred by denying the Defendant's proposed jury instructions by failing to provide to the jury a definition of "reasonable doubt."

14.

The Court erred in granting all of the State's pre-trial, trial and post-trial motions which the Court granted; likewise, the Court erred in overruling each of the Defendant's pre-trial, trial, and post-trial motions which the Court denied.

15.

The Court erred in sustaining all of the State's objections which the Court sustained; likewise, The Court erred in overruling all of the Defendant's objections which the Court overruled.

16.

The interests of justice require that this Court exercise its supervisory powers and grant the Defendant a new trial and/or judgment of acquittal or judgment notwithstanding the verdict.

17.

The sentence of the Defendant is excessive, not supported by the evidence, is disproportionate to the sentences imposed on other similarly situated defendants and violates the Eighth and Fourteenth Amendments to the United States Constitution and corresponding sections of the Mississippi Constitution.

18.

Cumulative error in the trial requires a new trial.

19.

Other grounds to be assigned once the transcript is available and upon the hearing hereon.

WHEREFORE, PREMISIS CONSIDERED, the Defendant, Carly Madison Gregg, prays that this Court will grant her Motion for New Trial without delay or in the alternative, enter a Judgment Notwithstanding the Verdict for the reasons outlined herein above. Carly further prays for such other relief, either general or specific, to which she may show herself entitled in a Court of Law.

Respectfully Submitted, this the 26th day of September, 2024.

CARLY MADISON GREGG, DEFENDANT

By: /s:/ Bridget R. Todd
Bridget R. Todd, MSB #104350
Cole Todd Legal Group, PLLC
200 East Government Street
Brandon, Mississippi 39042
Telephone: (601) 824-5040
Email: todd.bridget@gmail.com
Attorneys for Carly M. Gregg

CERTIFICATE OF SERVICE

I, Bridget R. Todd, hereby certify that on this the 26th day of September, 2024, I submitted a true and accurate copy of the above-foregoing *Motion for New Trial, or in the Alternative, Judgment Notwithstanding the Verdict*, via electronic transmission using the MEC system to the following persons:

Kathryn W. Newman, Esq.,
Michael Smith, Esq.,
District Attorney Office for the 20th Judicial District
P.O. Box 68
Brandon, Mississippi 39043
Telephone: (601) 825-1472
Email: knewman@rankincounty.org
Email : mssmith@rankincouty.org
Assistant District Attorney for the 20th Judicial District

By: /s:/ Bridget R. Todd
Bridget R. Todd, MSB #104350
Cole Todd Legal Group, PLLC
200 East Government Street
Brandon, Mississippi 39042
Telephone: (601) 824-5040
Email: todd.bridget@gmail.com
Attorneys for Carly M. Gregg