

FILED

WAYNE J.D. GLENN'S OFFICE

IN THE SUPERIOR COURT OF WAYNE COUNTY

2019 MAR 18 PM 12:00

STATE OF GEORGIA

Frances B. Johnson

CLERK SUPERIOR COURT

STATE OF GEORGIA)

vs.)

CASE NO. 14CR323

HILLARY SCHWARTZ,)

Defendant.)

ORDER

This case came before the Court on December 19, 2018 for a hearing on Defendant's Motion to Terminate Probation. The State appeared represented by Special Assistant District Attorney John Johnson, Esq., and Defendant appeared represented by Todd Brooks, Esq.¹

By way of history, this case involves the death of 27-year-old Sarah Jones on a train trestle in Jesup, Georgia, during filming for *Midnight Rider*. Schwartz's involvement with the film was as the first assistant director responsible for safety. On March 10, 2015, Schwartz pled guilty, under the First Offender Act, to one count of involuntary manslaughter. On March 18, 2015, the Court sentenced Schwartz to, *inter alia*, ten years' probation.

Schwartz asks the Court to modify her probation as permitted under O.C.G.A. §§ 17-10-1(a)(1)(B) and 42-8-37(c)(1). Under O.C.G.A. § 17-10-1(a)(1)(B),

[W]hen a defendant with no prior felony conviction is convicted of felony offenses or is charged with felony offenses and is sentenced [under the First Offender Act], and the court imposes a sentence of probation ..., the court shall include a behavioral incentive date in its sentencing order that does not exceed three years from the date such sentence is imposed. Within 60 days of the expiration of such incentive date, if the defendant has not been arrested for anything other than a nonserious traffic offense as defined in Code Section 35-3-37, has been compliant with the general and special conditions of probation imposed, and has paid all restitution owed, the Department of Community Supervision shall notify the prosecuting attorney and the court of such facts. The Department of Community Supervision shall provide the court with an order to

¹ Ms. Schwartz waived her personal appearance at the hearing, and the State did not object to the waiver.

terminate such defendant's probation which the court shall execute unless the court or the prosecuting attorney requests a hearing on such matter within 30 days of the receipt of such order. The court shall take whatever action it determines would be for the best interest of justice and the welfare of society..

Under O.C.G.A. § 42-8-37(c)(1),

The case of each person receiving a probated sentence of three years or more shall be reviewed by the officer responsible for such case after service of three years on probation, and a written report of the probationer's progress shall be submitted to the sentencing court along with the officer's recommendation as to early termination. The report shall specifically state whether the probationer has been arrested for anything other than a nonserious traffic offense as defined in Code Section 35-3-37, whether the probationer has been compliant with the general and special conditions of probation imposed, and the status of the probationer's payments toward restitution or any fines and fees imposed. Each such case shall be reviewed and a written report submitted annually thereafter until the termination, expiration, or other disposition of the case.

Read together, these statutes give the Court wide latitude to modify a defendant's term of probation.

When this Court sentenced Schwartz, one of its primary considerations was Sarah's family's desire to give her death meaning in the film industry – to have it serve as a lesson on the need to address safety issues in the industry. As the first assistant director on the film, Schwartz's duties including ensuring that the film sets were safe and implementing safety plans for film production. In connection therewith, she was required to conduct daily safety meetings. Schwartz failed to fulfill her duties in this regard, and Sarah Jones died as a result.

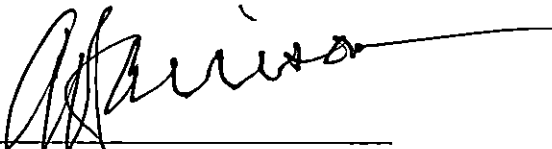
Notably, both the State and Sarah Jones' family oppose Schwartz's motion. At the hearing on the motion, the Court heard from Sarah's father, who expressed his desire that those who made the poor decisions leading to Sarah's death continue to be held responsible. He also pointed to the far-reaching improvements in the industry resulting from the convictions and sentences rendered in this matter. He told the Court that his primary concern in any termination of Schwartz's probation is the message it would send to the industry, especially after they have

accomplished so much.

It is worth mentioning that Schwartz's time on probation appears to have been well-spent. From all accounts, she seems to be an exemplary probationer. And though the Court has no doubt that she will continue to fully comply with the terms of her probation, it strongly believes that; for her sentence to continue to have the meaning both Sarah's family and this Court intended it have, her sentence must be completed as ordered by the Court.

Moreover, though Schwartz's sentence does not contain a behavioral incentive date, the Court hereby **ORDERS** that, in accordance with the letter and spirit of O.C.G.A. § 42-8-37(c)(1), the officer responsible for supervising Schwartz's probation provide this Court, on at least an annual basis, with a report of Schwartz's progress on probation, along with a recommendation as to her early termination therefrom.² Though the Court may, at some point in the future, find that the continuation of Schwartz's probation no longer serves the purpose for which it was imposed, it does not so find at this time. As such, and until it finds otherwise, Schwartz's motion to terminate probation is hereby **DENIED**.

It is so **ORDERED**, this 13 day of March, 2019.



ANTHONY L. HARRISON
Judge, Superior Courts
Brunswick Judicial Circuit

² Such report shall also "specifically state whether [Schwartz] has been arrested for anything other than a nonserious traffic offense as defined in [O.C.G.A. § 35-3-37, and] whether the probationer has been compliant with the general and special conditions of probation imposed[.]" See O.C.G.A. § 42-8-27(c)(1).



JUDGE ANTHONY L. HARRISON
SUPERIOR COURTS OF GEORGIA

BRUNSWICK JUDICIAL CIRCUIT

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March 14, 2019

Ms. Frances Yeargan
Clerk, Wayne Superior Court
P.O. Box 918
Jesup, GA 31598

RE: State v. Hillary Schwartz
Case No. 14CR323
Wayne Superior Court

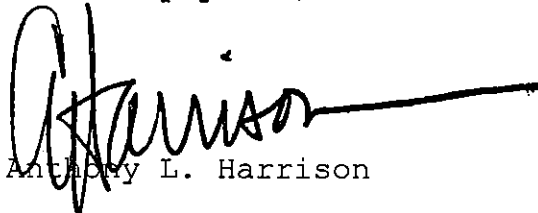
Dear Ms. Yeargan:

Enclosed herewith for filing in the captioned matter is an
ORDER.

**Please promptly serve a file-stamped copy upon all counsel
for the State.**

Thank you for your assistance in this matter.

Sincerely yours,



Anthony L. Harrison

ALH/cf

Enclosure

CC: John Johnson, Esq.
Todd Brooks, Esq.