

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

FILED IN OFFICE

2023 MAR 20 P 3:37

STATE OF GEORGIA,

vs.

LEILANI M. SIMON,

Defendant.

Indictment No. SPCR22-03364-J6

CLERK OF SUPERIOR COURT
CHATHAM COUNTY, GA

SPECIAL DEMURRER (COUNTS 1, 2, AND 3)

Comes now the Defendant by and through the undersigned counsel and files this Special Demurrer as to Counts 1, 2, and 3 of the Indictment and as good grounds would state:

1. That Count 1 (Malice Murder) alleges that the Defendant with malice aforethought, caused the death of the victim "in a manner unknown to the grand jury."
2. That Count 2 (Felony Murder) alleges that the Defendant did make an assault upon the victim "with an object that when used offensively against a person did result in serious bodily injury, the nature of the object being unknown to the grand jury."
3. That Count 3 (Felony Murder) alleges that the Defendant did commit the offense of cruelty to child in the first degree by maliciously causing the victim, "cruel and excessive physical pain, in a manner unknown to the grand jury" and in commission of the offense caused the death of the victim.
4. That Counts 1, 2, and 3 are imperfect in form and the accused is entitled to more information.
5. That an order to satisfy due process when an indictment charges a compound felony such as felony murder, the count charging the compound offense must contain essential elements of the predicate offense, or the indictment must contain a separate count

charging the predicate offense completely, or the indictment must elsewhere alleged facts showing how the compound offense was committed. Stinson v. State, 279 GA 177 (2005).

6. That Counts 1, 2 and 3 individually and/or collectively fail to allege any manner of death; any manner in which any cruel and excessive physical pain was inflicted or the nature of any object or weapon which resulted in any serious injury to the victim.
7. That the generic statutory language as alleged in Counts 1, 2, and 3 do not adequately inform the Defendant of the facts on which each count is based and as such are defective. Lauderback v. State, 320 Ga. App. 649 (2013).
8. That a special demurrer can be filed to challenge an unclear charging document and to demand a more definite statement. State v. Delaby, 298 Ga. App. 723 (2009).

Wherefore the Defendant prays that this Honorable Court enter an Order Granting the Special Demurrer and Quashing Counts 1, 2, and 3 of the Indictment.

Respectfully submitted this the 20 day of March, 2023.



ROBERT W. ATTRIDGE, JR.
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CERTIFICATE OF SERVICE

This is to certify that I have this day served all parties with a copy of the foregoing by hand delivery and e-file to the following:

Tim Dean, ADA
Office of the District Attorney, EJC
Chatham County Courthouse
133 Montgomery St., Suite 600
Savannah, GA 31402

This 20 day of March, 2023.



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