

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA,

vs.

LEILANI M. SIMON,

Defendant.

Indictment No. SPCR22-03364-J6

AMENDED GENERAL DEMURRER
MOTIONS TO QUASH (COUNTS 10, 12, 14, and 17)

Comes now the Defendant by and through the undersigned counsel and files this Amended General Demurrer / Motion to Quash as to Counts 10, 12, 14, and 17 of the Indictment and as good grounds would state:

1. That in Counts 10, 12, 14 and 17 of the Indictment, the Defendant has been charged with a violation of O.C.G.A. § 16-10-20. (Concealment of Facts).
2. That the section of O.C.G.A. § 16-10-20 in which the Defendant has been charged makes it unlawful to conceal any material fact in any matter within the jurisdiction of state government or government any county.
3. That the material facts in which it is alleged that the Defendant concealed are;
 - a. The Defendant had discarded her son in a dumpster at the Azalea Mobile Home Plaza on the morning of October 5, 2022. (Counts 10, 14 and 17);
 - b. The Defendant used controlled substances on the night of October 4, 2022 (Count 12).
4. That these material facts that the Defendant are alleged to have concealed are in and of themselves violations of the law within the State of Georgia. (The Defendant has been charged in Count 4 with a violation of O.C.G.A. § 16-10-31 – Concealing the death of

another)

5. That the Defendant is alleged to have concealed these facts while she was being questioned by law enforcement agents of either the Federal Bureau of Investigations and/or the Chatham County Sheriff's Office as to the disappearance of her son and was a suspect of a criminal investigation.
6. That the Fifth Amendment of the U.S. Constitution affords protection and creates a right against self incrimination.
7. That the Defendant had a constitutional right not to incriminate herself at the time of the alleged concealment of these material facts.
8. That O.C.G.A. 16-10-20 cannot create a duty to reveal information during a criminal investigation by an individual who is a suspect, such as the Defendant, where that individual has a right not to incriminate themselves.
9. That the Defendant cannot be convicted of a criminal offense for exercising her rights against self incrimination under the Fifth Amendment.
10. That the section of O.C.G.A. § 16-10-20 dealing with concealment of material fact is therefore unconstitutional when applied to the facts of this case as alleged in Counts 10, 12, 14 and 17. As such, these Counts should be Quashed.

Wherefore, the Defendant prays that this Honorable Court grants this General Demurrer and Motion to Quash Counts 10, 12, 14 and 17 of the Indictment.

Respectfully submitted this the 12 day of April, 2023.



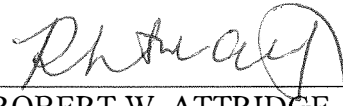
ROBERT W. ATTRIDGE, JR.
Assistant Public Defender
Georgia Bar No.: 311087

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 12 day of April, 2023.



ROBERT W. ATTRIDGE, JR.
Assistant Public Defender
Georgia Bar No.: 311087

Office of the Public Defender, EJC
P.O. Box 9176
Savannah, Georgia 31412
Phone: (912) 447-4901
Fax: (912) 447-4909
rwattri@chathamcounty.org