

IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA

THE STATE OF GEORGIA

v.

LUKE HARRISON WALDROP  
Defendant

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CASE #: SU-23-CR-0477-S

**STATE'S RESPONSE TO MOTION FOR HEARING ON MARSY'S LAW VIOLATION  
AND REQUEST TO DISMISS**

FILED IN OFFICE  
ATHENS-CLARKE COUNTY  
STATE OF GEORGIA  
2023 NOV -3 12:10  
CLERK OF SUPERIOR COURT  
DOCKET

COMES NOW the State of Georgia, by and through the undersigned District Attorney in the above-styled case, and files this Response to the Movant's Motion for Hearing on Marsy's Law Violation. The State requests this Court dismiss the movant's position due to lack of standing to bring the action.

1.

The State presents that Movant, Susan Wilson, is the long-time partner, not the spouse, of James V. Jones, the deceased victim in the indictment against Luke Harrison Waldrop (the "Defendant"), Criminal Action File No. SU-22-CR-0321.

2.

Movant and Mr. Jones were never officially married. On April 15, 2022, the Victim Advocate on the case "confirmed Ms. Wilson's relationship to James Jones – they were *partners* for 37 years" (Tracker Notes). At no time did Movant identify herself as Mr. Jones's wife. Georgia is not a Common Law Marriage State. However, Georgia does recognize Common Law marriages if the individuals meet 4 criteria including that they had to have been holding themselves out as husband and wife prior to January 1, 1997. Movant did not hold herself out to be Mr. Jones's wife at any time to the State.

3.

According to GA Code § 17-17-3 (2022), only victims in a case would have standing to file a Marsy's law violation. Domestic Partners are not considered victims under GA Code § 17-17-3; therefore, under GA Code § 17-17-3, the movant would lack standing to bring this action and it should be dismissed, based on the law GA Code § 17-17-3. The State moves this Court to find

as such and dismiss movant action filed under this case.

Given that fact, the Victim Advocates in the case did not consider Movant as the victim pursuant to § 17-17-3 for notification purposes.

GA Code § 17-17-3 (2022)

11. "Victim" means:

- A. A person against whom a crime has been perpetrated or has allegedly been perpetrated; or
- B. In the event of the death of the crime victim, the following relations if the relation is not either in custody for an offense or the defendant:
  - i. *The spouse*;
  - ii. An adult child if division (i) of this subparagraph does not apply;
  - iii. A parent if divisions (i) and (ii) of this subparagraph do not apply;
  - iv. *A sibling* if divisions (i) through (iii) of this subparagraph do not apply; or
  - v. A grandparent if divisions (i) through (iv) of this subparagraph do not apply; or
- C. A parent, guardian, or custodian of a crime victim who is a minor or a legally incapacitated person except if such parent, guardian, or custodian is in custody for an offense or is the defendant.

4.

Even with that definition, the Victim Advocates attempted contact with Movant at the same time they attempted contact with the deceased's sister. There are various instances listed in Tracker where the Movant was notified along with the sister. There are also notes of how the Movant was not issued the insurance benefits because she was not recognized as the wife or spouse of Mr. Jones. The next of kin, Mr. Jones's sister received those. Due to these circumstances, the State believed that it had met the responsibility of victim notification based on § 17-17-3.

5.

The State attempted to make contact with both the sister of the deceased and the Movant regarding the plea negotiation prior to the plea being finalized in Court. The sister gave feedback that she was in disagreement with the offer. The sister was asked if she would like to come to the proceeding to give a Victim Impact Statement. The sister declined. The Movant did not respond to the voice message left to her in regards to the plea and the proceeding.

6.

The State made the Court aware that the Victim (deceased's sister) was in disagreement with

the plea:

*“Mr. Neal: Your Honor, we have spoken with the family of the victim (deceased) and they have been notified of any – of the offer in this case, Your Honor. And they have been notified of the problems that we were receiving with evidence Your Honor. And they are in formal disagreement with the – with the plea agreement, Your Honor, and wish for the defendant to serve jail time.” (Transcript of Guilty Plea, September 21, 2023, pg. 15)*

7.

The Court, now notified and with knowledge of the Victim’s disagreement with the plea, and after thoughtful consideration and hearing from the Defendant’s attorney, accepted the plea bargain.

*“The Court: All right. Mr. Ballard, I’m going to have – you’re going to have to convince me why I should take this plea bargain.” (Transcript of Guilty Plea, September 21, 2023, pg. 13)*

*“The Court: It’s a tragedy. All right. I’m going to sentence you in accordance with the plea bargain.” (Transcript of Guilty Plea, September 21, 2023, pg. 17)*

WHEREFORE, the State of Georgia prays this Court find movant without standing in this action and dismiss movant’s action. Alternatively, the State would ask this Court to not find our Office in violation of Marsy’s Law as we made victim notification regarding the plea offer to the victim as defined by the Georgia State Code, and let the Court know of the victim’s disagreement with the plea before the Court made the final decision on accepting the plea recommendation and sentencing the defendant.

Respectfully submitted this 3<sup>rd</sup> day of November, 2023.

          /s/ Deborah Gonzalez          

Deborah Gonzalez  
District Attorney  
Western Judicial Circuit  
Georgia Bar Number 432657

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STATE OF GEORGIA

THE STATE OF GEORGIA

v.

LUKE HARRISON WALDROP  
Defendant

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the **STATE'S RESPONSE TO MOTION FOR HEARING ON MARSY'S LAW VIOLATION** on the Defendant through their attorney, Robbie Ballard, and to the Movant through their attorney, Kevin Epps, by email on the 3<sup>rd</sup> day of November, 2023 at [ballard@hbbfirm.com](mailto:ballard@hbbfirm.com) and [kevin@ehdhlaw.com](mailto:kevin@ehdhlaw.com) respectfully.

    /s/ Deborah Gonzalez    

Deborah Gonzalez  
District Attorney  
Western Judicial Circuit  
Georgia Bar Number 432657