

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Nov 06 2023

SC Court of Appeals

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROMANE CLARE,

APPELLANT

APPELLATE CASE NO. 2023-000230

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1330

ATTORNEY FOR APPELLANT

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Other Authorities

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STATEMENT OF ISSUE ON APPEAL

Appellant's guilty pleas were given involuntarily because there were no waivers from him at the proceeding to establish proof that he understood that pleading guilty would forfeit any subsequent challenges to the Castle Doctrine and/or Fourth Amendment issues raised in the case.

STATEMENT OF THE CASE

Romane Clare pled guilty to voluntary manslaughter and possession of a weapon during the commission of a violent crime during the February 2023 term of the Charleston County General Sessions Court before Judge Bentley Price. Appellant was sentenced to imprisonment for an aggregate term of twenty-seven years. Attorney Stephen Bowden represented appellant at the plea proceeding, and Assistant Solicitor Jessica A. Baldwin prosecuted the case.

Appellant appealed his convictions and sentences. This brief follows.

STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” State v. Nesbitt, 411 S.C. 194, 768 S.E.2d 67 (2015), (quoting State v. Jacobs, 393 S.C. 584, 713 S.E.2d 621 (2011)).

ARGUMENT

Appellant's guilty pleas were given involuntarily because there were no waivers from him at the proceeding to establish proof that he understood that pleading guilty would forfeit any subsequent challenges to the Castle Doctrine and/or Fourth Amendment issues raised in the case.

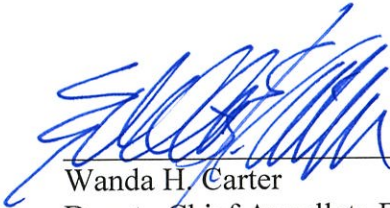
Appellant was charged with the fatal shooting of his wife at their residence. During the Castle Doctrine hearing held prior to the plea proceeding, appellant stated that he woke on the evening in question to the sounds of loud banging noises outside of his home, and that he fired his weapon because he knew not that it was his wife who was attempting to enter inside. R. 95, l. 16 - p.111, l. 23. Another hearing held prior to the plea proceeding addressed a Fourth Amendment objection to a police search conducted outside of his home, which produced a revolver, and inside of his home also, which yielded the discovery of projectiles (bullets) found inside the walls therein. R. 179-189. Appellant did not agree via waivers to the abandonment of these two claims at the guilty plea proceeding. Note that a self-defense claim was also injected into the immunity hearing.

The voluntariness of a guilty plea is determined from the record made at the time of the guilty plea. Dalton v. State, 376 S.C. 130, 654 S.E.2d 870 (2007). A defendant's knowing and voluntary waiver of the constitutional rights which accompany a guilty plea may be accomplished by colloquy between the court and the defendant. Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999) In Pittman, the Court held that the defendant did not understand the constitutional rights waived in his case. Note that a valid guilty plea waives non-jurisdictional defects or defenses, and immunity claims as well. State v. Sims, 423 S.C. 397, 814 S.E.2d 632 (2018).

In the case at bar, appellant waived his constitutional rights per Boykin v. Alabama, 395 U.S. 238 (1969), with respect to the privilege against self-incrimination, the right to a jury trial, and the right to confront his accusers. However, appellant did not waive on the plea record a surrender to the immunity and/or Fourth Amendment matters that arose in his case. Therefore, appellant's guilty pleas were not voluntarily entered in the case.

CONCLUSION

Based on the foregoing argument, counsel for appellant requests that appellant's guilty pleas be vacated and his case be remanded to the lower court for a new proceeding.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 6th day of November, 2023.

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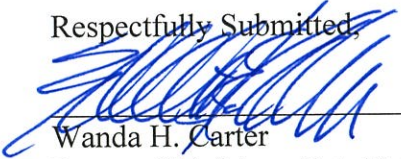
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Romane Clare states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Bentley Price, which was held on February 2, 2023, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Romane Clare.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 6th day of November, 2023.

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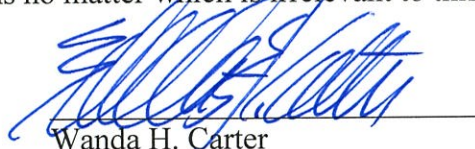
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Pre-Trial Castle Doctrine Transcript dated August 30, 2022
- (2) Order Denying Castle Doctrine Hearing filed September 12, 2022
- (3) Motion to Suppress filed January 27, 2023
- (4) Motion to Suppress filed January 31, 2023
- (5) Memorandum in Support of Motion to Suppress
- (6) Guilty Plea Transcript Dated February 2, 2023
- (7) Notice of Appeal dated February 14, 2023
- (8) Indictments

I certify that this designation contains no matter which is irrelevant to this appeal.



Wanda H. Carter
Deputy Chief Appellate Defender

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ATTORNEY FOR APPELLANT

This 6th day of November, 2023.

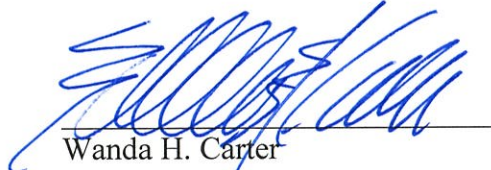
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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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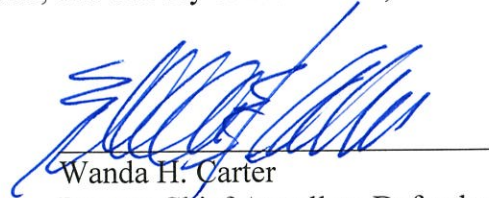
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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Romane Clare, #390157, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 6th day of November, 2023.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT