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**Nov 14 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

RACHEL MARIE WILCOX,

APPELLANT

APPELLATE CASE NO. 2024-000796

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ANDERS BRIEF OF APPELLANT

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WANDA H. CARTER  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Appellant's guilty plea was not given voluntarily because she was not aware of all rights waived upon pleading guilty as charged in the case.

## STATEMENT OF THE CASE

Appellant Rachel M. Wilcox pled guilty to aggravated breach of peace during the May 2024 term of the Richland County General Sessions Court before Judge Robert E. Hood. Appellant was sentenced to imprisonment for a period of three years, suspended to two years probation. Attorney Charles Dulaney represented appellant at the guilty plea proceeding, and Assistant Solicitor John Gardner prosecuted the case. Appellant appealed her conviction and sentence. 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. Jacob, 393 S.C. 584, 713 S.E.2d 621 (2011).

## ARGUMENT

Appellant's guilty plea was not given voluntarily because she was not aware of all rights waived upon pleading guilty as charged in the case.

On June 5, 2023, appellant was arrested by police at her mother's home after appearing there armed with a gun and demanding to see her (appellant's) two children. R. 5, l. 20 – p.6, l. 11. During the plea proceeding, the trial judge informed appellant of the rights she waived upon pleading guilty as follows:

The Court: Do you want to give up your right to remain silent?

Appellant: Yes.

The Court: Do you want to give up your right to a jury trial?

Appellant: Yes.

The Court: Do you want to give up your right to confront your accusers?

Appellant: Yes

R. 4, lines 12-20.

Conspicuously missing from the plea judge's listing of what rights were waived upon entering a guilty plea was the right to cross-examine one's accusers. The plea judge referred to the right to confront...without specifically speaking further to the waiver of the right to cross-examine the state's accusers. A defendant who pleads guilty simultaneously waives several constitutional rights: including the privilege against self-incrimination, the right to a jury trial, and the right to confront his accusers. Stave v. Patterson, 278 S.C. 319, 295 S.C.2d 264 (1982), citing to Boykin v. Alabama, 395 U.S. 238 (1969). Furthermore, a guilty plea also specifically waives one's right to cross-examine witnesses as well. California v. Green, 399 U.S. 149 (1970).

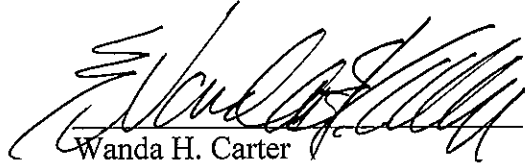
In Boykin v. Alabama, 395 U.S. 238 (1969), the Court summarized the waivers connected to guilty plea as follows:

Several federal constitutional rights are involved in a waiver that takes place when plea of guilty is entered in state criminal trial: first is privilege granted against compulsory self-incrimination guaranteed by the Fifth Amendment and applicable to states by reason of Fourteenth, second is right to trial by jury, and third is right to confront one's accusers; [and] a waiver of these three important federal rights cannot be presumed from a silent record. U.S.C.A. Const. Amends. 5, 14.

In the case at bar, the record established that appellant's plea was given involuntarily because she was unaware of the rights she waived upon entering her guilty plea at the plea proceeding.

**CONCLUSION**

Based on the foregoing argument, counsel for appellant would request that appellant's guilty plea and sentence in the case be vacated.

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', is written over a horizontal line.

Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of November, 2024.

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PETITION TO BE RELIEVED AS COUNSEL

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Counsel for Rachel Marie Wilcox 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 Robert E. Hood, which was held on May 6, 2024, 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 Rachel Marie Wilcox.

Respectfully Submitted,



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Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

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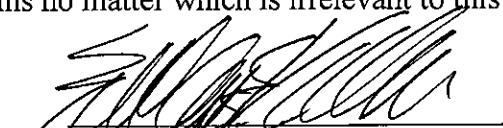
APPELLATE CASE NO. 2024-000796

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

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

- (1) Guilty Plea Transcript dated May 6, 2024
- (2) Indictment
- (3) Sentence Sheet

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

  
Wanda H. Carter  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

This 14th day of November, 2024.

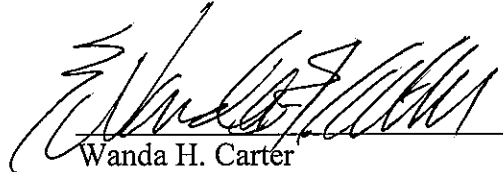
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**CERTIFICATE OF COUNSEL**

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."



Wanda H. Carter  
Deputy Chief Appellate Defender

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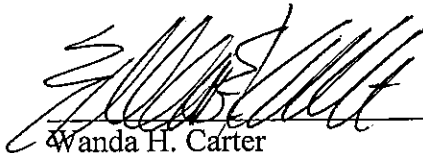
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CERTIFICATE OF SERVICE

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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 R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Rachel Marie Wilcox at 7909B Spring Flower Road, Columbia, SC 29223, this 14th day of November, 2024.



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Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT