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Jan 02 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Barnwell County

Honorable Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TERRIONNA MARIE HARTWELL,

APPELLANT

APPELLATE CASE NO. 2024-000802

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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STATEMENT OF ISSUE ON APPEAL

Appellant's pleas were not given voluntarily in the case because she was unaware of all rights waived upon pleading guilty to the offenses charged against her.

STATEMENT OF THE CASE

Appellant Terrionna Hartwell pled guilty to voluntary manslaughter and attempted armed robbery at the April 25, 2024, term of the Barnwell County General Sessions Court before Judge Courtney Clyburn-Pope, who sentenced appellant to imprisonment for an aggregate twenty-five year term, suspended upon the service of twenty years, and probation for five years. Attorney Erin Conroy represented appellant at the guilty plea proceeding, and Assistant Solicitor David W. Miller prosecuted the case.

Appellant appealed her 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. Jacob, 393 S.C. 584, 713 S.E.2d 621 (2011).

ARGUMENT

Appellant's pleas were not given voluntarily in the case because she was unaware of all rights waived upon pleading guilty to the offenses charged against her.

On July 13, 2021, Alfonso Green traveled to Barnwell County, South Carolina, in order to meet appellant per their agreement reached via an internet dating exchange wherein he agreed to pay 200.00 for her (appellant's) services to him. When Green arrived at the designated location, he was fatally shot by D. Angelo, who was waiting there at the scene along with appellant. Tr. 5, l. 1 – p. 8, l. 13. During the guilty plea colloquy, the plea judge apprised appellant of the rights she waived upon pleading guilty to the offenses charged in the case:

The Court: [Appellant], you understand that when you plead guilty, you're giving up your right to a jury trial?

Appellant: Yes, ma'am. Tr. 24, lines 13-15.

In the case at bar, the plea judge failed to advise appellant that her guilty pleas would waive the right to confront her accusers and the privilege against self-incrimination.

A defendant who pleads guilty simultaneously waives several constitutional rights, including the privilege against self-incrimination, the right to a trial by jury, and the right to confront all accusers. State v. Patterson, 278 S.C. 319, 295 S.E.2d 264 (1982), citing to Boykin v. Alabama, 395 U.S. 238 (1969). See Boykin v. Alabama, 395 U.S. 238 (1969), where the Court addressed the waivers connected to guilty pleas 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 instant case, the record established that appellant's pleas were not given voluntarily because she was unaware of the right to confront all accusers and the privilege against self-incrimination when she entered her guilty pleas in the case.

CONCLUSION

Based on the foregoing argument, counsel for appellant would request that appellant's convictions and sentences be reversed, and her case remanded to the lower court for a new proceeding.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of January, 2025.

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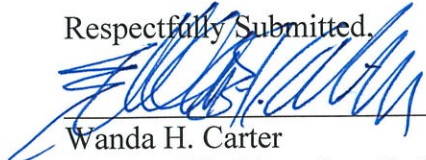
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Terrionna Marie Hartwell 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 Courtney Clyburn-Pope, which was held on April 25, 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 Terrionna Marie Hartwell.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

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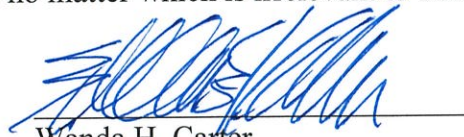
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) Entire Transcript dated April 25, 2024
- (2) Indictments

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



Wanda H. Carter
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ATTORNEY FOR APPELLANT

This 2nd day of January, 2025.

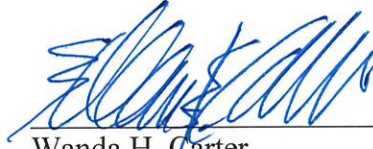
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CERTIFICATE OF COUNSEL

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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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 Terrionna Marie Hartwell, #394003, at Leath Correctional Institution, 2809 Airport Road, Greenwood, SC 29649, this 2nd day of January, 2025



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT