

MELISA W. GAY, LLC
Attorneys and Counselors at Law
Post Office Box 2144
Mt. Pleasant, South Carolina 29465-2144
Telephone: 843-856-0580
Fax: 843-856-0590

FACSIMILE TRANSMITTAL SHEET

To: SC Court of Appeals Fax: 803 734 1839
From: Melisa W. Gay Date: 10-15-2013
Re: Erica Butts Page: 4
Case: 2013-000218 CC:

Urgent For Review Please Comment Please Reply Please Forward



Memorandum of Issues
package was mailed
through US Post Office today, Oct 15, 2013
due to the Oct 14, 2013 Columbus Day
closing of US Post Office.
It should arrive tomorrow.

RECEIVED
OCT 15 2013
SC COURT OF APPEALS

STATE OF SOUTH CAROLINA
IN THE SOUTH CAROLINA COURT OF APPEALS
APPEAL FROM CHARLESTON COUNTY
HONORABLE DEADRA L. JEFFERSON
CASE NO.: 2013-000218

STATE OF SOUTH CAROLINA, RESPONDENT

VS.

ERICA BUTTS

RECEIVED
OCT 15 2013
SC Court of Appeals

MEMORANDUM OF ISSUES

The Defendant entered in to a plea under North Carolina v. Alford on November 3, 2011. She was sentenced to a period of life. She entered into her plea with an explicit understanding that she had bargained with the Solicitor Elizabeth Gordon for a benefit at sentencing. During plea negotiations Defendant's mother had extensive meetings and conversations with the solicitor about the benefits to Defendant from her decision to plea under Alford. Defendant's mother was a fact witness against the Defendant in the State's case against her. Defendant's mother had been told by the solicitor that the solicitor would be lenient with Defendant. The solicitor had specifically asked Defendant's mother to convince her to plea under Alford, because it would be better for defendant.

Defendant's attorney had several conversations with the solicitor regarding the benefit that the Defendant would receive. These conversations were shared with the Defendant. The solicitor repeatedly said that she would not ask for life and that she would


ask the sentencing judge to be lenient on the Defendant. The solicitor's theory was that the co-defendant was the person who inflicted the injuries that resulted in the victim's death. The solicitor put pressure on the defendant through her mother to get the Defendant to plead guilty under Alford. At the time of sentencing, the Defendant's mother was stunned by the solicitor's request for the court to impose a life sentence on the Defendant. At no time in all the meetings with the solicitor and conversations that both the Defendant's mother and her attorney had did the solicitor ever indicate that the only benefit of the bargain for the Defendant would be for the State to dismiss one charge. The Defendant detrimentally relied on the promises of the solicitor that she would ask the court to be lenient with the Defendant's sentence. Even on November 3, 2011, when the Defendant entered her plea, the solicitor was telling Defendant's mother that she would help the Defendant and that it was a really good thing that the Defendant chose to plead guilty.

After sentencing, Defendant filed a Motion for Reconsideration of Sentence on November 10, 2011. The State of South Carolina filed a Memorandum in Opposition to Sentencing Reconsideration. Judge Jefferson issued the order Denying Defendant's motion For reconsideration of Sentence on January 14, 2013. All three of these documents have been included with this Memorandum.

The Defendant is appealing the sentence imposed for a period of life based on the fact that her plea under Alford was not freely and voluntarily entered into based on the fact that the solicitor misled her through statements that the solicitor made to both her mother and her attorney. At no time did the solicitor ever tell Defendant's attorney that the only benefit of the bargain for her guilty plea would be a dismissal of one charges. At

all time, the solicitor implied and stated that she would help the Defendant at sentencing which is in opposition to requesting a life sentence at the sentencing hearing.

Appellant has submitted an application for representation by the Office Appellate Defense. Additionally issues may be raised on behalf of Appellant after her case is opened and reviewed by her appointed attorney.



MELISA W. GAY
ATTORNEY FOR APPELLANT
ERICA BUTTS
P.O. BOX 2144
MT. PLEASANT, SC 29465
(843)856-0580
(843)856-050 fx

Other Counsel of record are:
Scarlet Wilson, Esq.
Solicitor Ninth Judicial Circuit
101 meeting Street 5th Floor
Charleston, SC 29401