

Melisa W. Gay, LLC  
Attorney and Counselor at Law

Melisa W. Gay

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October 14, 2013

**Via United States Mail**

Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

RE: State of South Carolina v. Erica Butts  
Case No. 2013-000-218

Dear Madam Clerk:

Please find enclosed an original and six (6) copies of Erica Butt's Memorandum of Issues.

Upon filing, kindly return the certified copies to me in the self-addressed, stamped envelope that I have provided for your convenience. Should you have any questions or concerns, please do not hesitate to contact our office at your earliest convenience. Thank you for your attention to this matter.

Sincerely,



Melisa W. Gay

Enclosure

Cc:

Scarlett Wilson  
Assistant Solicitor  
Ninth Judicial Circuit

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OCT 16 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

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OCT 16 2013

SC Court of Appeals

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MEMORANDUM OF ISSUES

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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

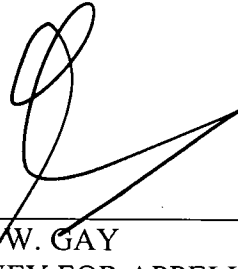
ask the sentencing judge to be lenient on the Defendant. The solicitor's theory was that the co-defendant was the person who inflicted the injuries that resulted in the victim's death. The solicitor put pressure on the defendant through her mother to get the Defendant to plead guilty under Alford. At 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 Carolinas 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 mislead 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.



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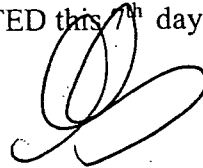
Other Counsel of record are:  
Scarlet Wilson, Esq.  
Solicitor Ninth Judicial Circuit  
101 meeting Street 5<sup>th</sup> Floor  
Charleston, SC 29401

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	WARRANT NO.: J-093883
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	
	)	MOTION FOR RECONSIDERATION
ERICA BUTTS	)	OF SENTENCE
	)	
Defendant.	)	

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YOU WILL PLEASE TAKE NOTICE that the Defendant through the undersigned attorney, will move for a Reconsideration of the Sentence of Life imposed upon her by the Honorable Deidre Jefferson on November 3, 2011. This sentence was overly harsh and did not take into consideration that the Defendant had entered into an N.C. v Alford plea and as such has entered into an agreement with the Solicitor to receive a benefit for her willingness to plead guilty to the charge.

AND IT IS RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of November 2011 at Charleston, South Carolina.




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Melisa W. Gay, Esquire  
 ATTORNEY FOR ERICA BUTTS  
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 Mt. Pleasant, SC 29465-2144  
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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

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2013 JAN 14 PM 4:20 IN THE COURT OF GENERAL SESSIONS  
2011-GS-10-4123

STATE OF SOUTH CAROLINA

-versus-

ERICA BUTTS

Defendant.

JULIE A. ARMSTRONG  
CLERK OF COURT

BY *[Signature]*

MEMORANDUM IN OPPOSITION TO SENTENCE  
RECONSIDERATION ON CHARGE OF HOMICIDE BY  
CHILD ABUSE

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OCT 17 2013

SC Court of Appeals

**Factual Background**

Shanita Cunningham and Erica Butts both pled guilty to Homicide by Child Abuse under S.C. Code 16-3-85(a) on August 25, 2011 in front of The Honorable Roger Young. Both defendants pled "straight up" without any beneficial sentencing recommendation from the State.

As is often the case when multiple defendants are charged in the same crime, there was maneuvering from both camps leading up to the trial date. Both defendants' attorneys, contacted The State about possible cooperation from their clients in hopes of reducing the charge. The State never entertained any possibility of a reduced charge, which is what both defendants were requesting in exchange for cooperation.

Defense Counsel for Ms. Butts contacted me early in the process about the possibility of proffering her client. The State indicated we would be happy to speak to Ms. Butts, but that we were not in a position to make any offer to her. Under those terms, a proffer was never scheduled although Ms. Gay periodically would indicate that her client didn't want a trial and that she was hoping her client could enter a plea to a reduced charge. Based on the information we had, I indicated to Ms. Butts' attorney that I was not offering a reduced

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charge. Since neither defendant indicated any interest at that time in pleading to the crime as charged, the State continued to decipher all the information and began preparing the case for a trial. Even though both defense attorneys were stating that their client was interested in a plea, it was always with the caveat of a requesting a plea to a lesser charge or negotiate a lesser sentence. The State was not inclined to make such an offer based on the evidence we had.

As the time for trial approached, both defense attorneys continued to express interest in an offer. Again, the State indicated that based on what we had, we were not inclined to make an offer. On August 4, 2011 in an email to both defense attorneys, the State indicated again that it was not in a position to make any offers to either defendant until either or both of them *completed* the proffer process. I warned both defense attorneys that the proffer process could end up working to their client's detriment. (See Attached Exhibit B Email dated August 4, 2011).

Ms. Winslow promptly indicated that her client wished to be placed on the plea docket, but she of course could not make a guarantee that her client would plead guilty. Likewise, Ms. Gay indicated that she believed Ms. Butts would plead guilty.

On the chance that either defendant backed out of the plea, both defense attorneys were given Plea Agreements in the event their client wished to cooperate after they entered the guilty plea. Ultimately, on August 25, 2011, both defendants entered guilty pleas. They were both scheduled during the same term and pled within a few minutes of each other. I indicated to both attorneys on that day, that I understood that both defendants were pleading guilty.

**Defendant's Sentence is not unduly harsh**

Ms. Butts' sentence is not too harsh based on the circumstances of the crime. The Court painstakingly listened to all evidence presented by both the State and the Defense attorney regarding the circumstances surrounding the death of Serenity Richardson. The facts of how Serenity died are extreme to say the least. Serenity's death was not the result of a horrible lapse in judgment on one moment with irrevocable consequences. Serenity's death was the result of repeated torture over a period of time. The photos depict what type of pain Serenity must have endured at 3 years of age at the hands of Erica Butts and Shanita Cunningham. Despite Serenity's decline, Ms. Butts and Ms. Cunningham acted in their own self interest and never sought medical attention for Serenity. It was only after Serenity died, and after Ms. Butt's mother arrived at the home that EMS was contacted.

The circumstances surrounding the death of Serenity Richardson involve circumstances of torture and the killing of a child under the age eleven, both considered aggravating circumstances for possible consideration of the death penalty in South Carolina pursuant to S.C. Code 16-3-20 (1976 as amended). A life sentence was justified and appropriate in the case against Ms. Butts.

**Ms. Butts is not entitled to a reduced sentence under N.C. Alford**

Ms. Butts contends by and through her counsel that she is entitled to a reduction in her sentence because she entered a plea under N.C. vs. Alford. Ms. Butts did receive the dismissal of one count of Homicide by Child Abuse as part of her entering the plea. It was Ms. Butt's decision by and through her attorney to enter a plea under N.C. vs. Alford. The

State did not offer a reduced sentence, and Ms. Butts made the decision with the advice of counsel to enter the plea with the understanding that her only benefit was that the State would dismiss the second charge. At trial Ms. Butts could have been convicted for both inflicting injuries to Serenity which resulted in her death under S.C. Code 16-3-85(a)(1) and under S.C. Code 16-3-85(a)(2) for aiding and abetting Shanita Cunningham in the abuse of Serenity Richardson. See State v. Smith 359 S.C. 481, 597 S.E.2d 888 (2004).

**Conclusion**

The Honorable Deadra Jefferson reviewed all information provided during the sentencing by both the State, Defense Counsel and Defendant before coming to a sentencing decision. The facts and circumstances of Serenity's death and Ms. Butt's participation in those acts warrant a life sentence, and the sentence should stand.

Respectfully Submitted

Scarlett Wilson,  
Solicitor, Ninth Judicial Circuit

By: 

Elizabeth S. Gordon  
Assistant Solicitor  
S.C. Bar #16952

FILED

2013 JAN 14 PM 4:27

JULIE J. WATSON-FRONG  
CLERK OF COURT

BY \_\_\_\_\_

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

ERICA MAE BUTTS,

Defendant.

) IN THE COURT OF GENERAL SESSIONS

) FOR THE NINTH JUDICIAL CIRCUIT

) Case No: 2010-GS-10-4123

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OCT 17 2013

) ORDER DENYING DEFENDANT'S <sup>USPT of Appeals</sup>  
) MOTION FOR RECONSIDERATION OF  
) SENTENCE

JULIE J. ARMSTRONG  
CLERK OF COURT  
2013 JAN 14 PM 4:17  
FILED

Date of Hearing: November 3, 2011  
Judge: Deadra L. Jefferson  
Assistant Solicitor: Elizabeth Gordon, Esq.  
Defendant's Attorney: Lisa Gay, Esq.  
Court Reporter: Henry Young

THIS MATTER is before the Court on the Defendant's Motion for Reconsideration of Sentence filed November 10, 2011. Present at the hearing on November 3, 2011 were Lisa Gay, Esq. for the Defendant and Assistant Solicitor Elizabeth Gordon, Esq. for the State.

The Defendant entered a plea under North Carolina v. Alford before the Honorable Roger M. Young, Sr. on August 25, 2011 to Homicide by Child Abuse. As a result of entering the plea, the State dismissed one count of Homicide by Child Abuse (2010-GS-10-4182). Sentencing was deferred to allow the victim's family the opportunity to travel from Michigan to be present at the sentencing hearing. The sentencing hearing was held before this Court on November 3, 2011. The offense of Homicide by Child Abuse carries a penalty range of twenty (20) years to life pursuant to S.C. Code Ann. § 16-3-85 and is classified as violent and most serious. This Court sentenced the Defendant to the State Department of Corrections for a period of life. The Court gave the Defendant credit for time served pursuant to S.C. Code Ann. § 24-13-40 to be calculated and applied by the State Department of Corrections.

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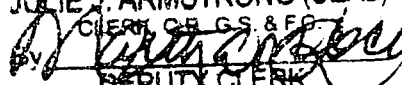
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CLERK OF COURT  
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The Defendant filed this Motion for Reconsideration of Sentence on November 10, 2011. The Defendant timely served the Motion on the State. The State filed its Memorandum in Opposition to Sentence Reconsideration on February 22, 2012 which was received by the Court the same day. The Defendant proposes that the sentence be reduced on the grounds that the sentence is overly harsh under the facts and circumstances of the case. The Defendant also contends the Court did not consider the fact the Defendant entered an Alford plea and, as such, entered into an agreement with the State to receive a benefit for her willingness to plead guilty. The State takes the position that a reduction in sentence is not appropriate due to nature of the Defendant's charge and the facts of the case.

#### STANDARD OF REVIEW

"The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion." State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Cl. App. 2008) (citing State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981)). "A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." Hicks, 377 S.C. at 325, 659 S.E.2d at 500. The South Carolina Supreme Court has held, "it is proper for the trial judge, in open court, in the presence of the defendant, to inquire into any relevant facts in aggravation or mitigation of punishment." State v. Cantrell, 250 S.C. 376, 379, 158 S.E.2d 189, 191 (1967).

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LAW/ANALYSIS

**I. The sentence imposed by the Court is not unduly harsh.**

The Defendant is twenty-five (25) years old, which the Court considered as a mitigating factor in sentencing. However, the victim in this case was only three (3) years old. The life expectancy of a three (3) year old female is 73.76 years, while the life expectancy of a twenty-five (25) year old female is 56.4 years. S.C. Code Ann. § 19-1-150. Thus, the victim's life expectancy is greater than that of the Defendant. While the Court considered the Defendant's age as a mitigating factor, it is outweighed by the aggravating factor of the victim's young age.

The Court also had the opportunity to review the evaluation of criminal responsibility and capacity to conform conducted by the South Carolina Department of Mental Health (SCDMH), the forensic mental health evaluation performed by Dr. Randolph Waid, and had the opportunity to hear from the Defendant and several members of the Defendant's family. The Court took all of the information it had into consideration as mitigation of punishment. In aggravation the Court had the opportunity to review the victim's autopsy photographs, photographs of the victim prior to her death, and heard from several members of the victim's family and the lead detective in the case.

The lead detective advised the Court the victim was covered in scars and lifeless when she arrived at the scene. She stated the Defendants' reports do not match what she witnessed. Based on the information and photographs presented, the Court agrees. A search of the home where the abuse occurred produced multiple broken hangers and duct tape, as well as blood, which matched the victim's, on the wall and couch. The Defendant admits to spanking the victim on multiple occasions for urinating on the floor. In the SCDMH evaluation, the Defendant stated the victim arrived in South Carolina on October 22nd or 23rd, 2009, began urinating on the floor about two (2) days later, her symptoms returned with frequency on October

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28th, and then returned again on November 3rd, the date of the victim's passing. The Defendant admitted when she spanked the victim, she would strike her five (5) to six (6) times on the back and buttocks with a belt. During sentencing, the Defendant admitted to spanking the victim, but denied killing her. She stated she did not know the child was dying. However, in the SCDMH evaluation, the Defendant stated on November 3, 2009 they woke the victim up after putting her to bed, at which time the victim required assistance to stand. The victim was sat on the living room floor where she leaned to one side. Rather than call EMS, the Defendant called her mother to come over. During this time, the Defendant alleges the victim began breathing funny, but it did not cross her mind that the victim was passing away. The Defendant allegedly blacked out, and upon waking found the co-defendant attempting to wake the victim up with a bleach soaked towel. The Defendant's mother was the one to call EMS. Both the Defendant and the co-defendant allegedly administered CPR on the victim until EMS arrived. At sentencing, the State advised the Court the child's rectal temperature was only 82.9 degrees when EMS arrived; thus, it is likely the victim expired before 911 was called. The Defendant stated they did not call 911 sooner because the co-defendant was on probation. The Defendant's lack of urgency and concern for the victim, especially in light of the victim's declining physical state prior to calling 911, which should have been apparent to a reasonable person, is disconcerting to this Court.

As attested to by the lead detective, the story given by the Defendant and the photographs simply do not match. The photographs depict the culmination of a continual beating of the minor child over the course of her stay with the Defendant and co-defendant. Though the Court did not have the advantage of hearing the testimony of the pathologist, the photographs clearly depict old wounds, healing wounds, and fresh wounds. Despite the length of time the injuries had been on the victim's body, the most disconcerting aspect to this Court is the extent of the victim's injuries. The State's account of the severity of the injuries is consistent with the

at sentencing, was not exaggerated. The photographs illustrate a child with bruises, marks, scabs, and contusions over her entire body with the exception of the soles of her feet. The photographs also depict extensive internal bleeding and contusions on several organs including the lungs and bladder. The abuse inflicted on this three (3) year old victim was horrific and senseless. Accordingly, the sentenced imposed was not unduly harsh.

**II. Defendant is not entitled to a reduced sentence for entering into a plea under North Carolina v. Alford.**

According to the State, counsel for the Defendant contacted the State early in the process about the possibility of proffering her client. The State indicated it would speak with the Defendant but was not in a position to make an offer. A proffer was never scheduled, but counsel periodically indicated her client did not wish to go to trial. Both defense attorneys stated their client was interested in a plea, but it was always under the caveat of a plea to a lesser charge or negotiate to a lesser sentence. The State indicated it was not inclined to make such an offer based on the evidence. On August 4, 2011, the State indicated in an email to both defense attorneys that it was not in a position to make any offers until either or both of them completed the proffer process. The State also warned both attorneys that the proffer process could work to their client's detriment.

Defendant's counsel and co-defendant's counsel indicated their clients wished to be placed on the plea docket, and on the chance either defendant backed out of the plea, both attorneys were given Plea Agreements in case either defendant wanted to cooperate against the co-defendant. However, both defendants decided to plead guilty on August 25, 2011. The State did not offer a reduced sentence or lesser charge.

For all practical purposes, an Alford plea is treated as a guilty plea. Zurcher v. Bilton, 379 S.C. 132, 136, 666 S.E.2d 224, 227 (2008). " An Alford plea—a guilty plea accompanied by an

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assertion of innocence—was held to be a constitutional admission of guilt in North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed.2d 162 (1970). The Alford court reasoned that so long as a factual basis exists for a plea, the Constitution does not bar sentencing a defendant who makes a calculated choice to accept a beneficial plea arrangement rather than face overwhelming evidence of guilt.” Zurcher, 379 S.C. at 136, 666 S.E.2d at 227 (citing 400 U.S. at 38, 91 S.Ct. 160). It was the Defendant’s decision to plead under Alford, and she made the decision with the advice of counsel to enter the plea with the understanding that the benefit to be received was that the State would dismiss the second charge for Homicide by Child Abuse.<sup>1</sup>

A trial judge may take a defendant’s decision to admit guilt by pleading guilty into consideration when sentencing, and this Court did so. However, the Court finds the evidence of aggravation outweighed all mitigating factors, and, thus, the Defendant is not entitled to a reduced sentence.

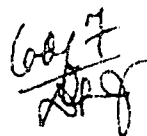
### CONCLUSION

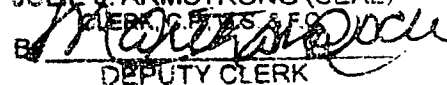
The Court finds that the Defendant has outlined no sound reason for this Court to alter its sentence. The Defendant was properly sentenced on November 3, 2011 pursuant to S.C. Code Ann. § 16-3-85. Further, the Court deems the sentence ordered is appropriate under the facts of this case.

Having fully considered the Defendant’s Motion for Reconsideration of Sentence, the State’s Memorandum in Opposition thereto, as well as having fully reviewed the record and the various interests balanced by the Court at the time of sentencing, the Motion for Reconsideration

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<sup>1</sup> At trial, Defendant could have been convicted of both Homicide by Child Abuse under Section 16-3-85(a)(1) for inflicting injuries to the victim which resulted in death and under 16-3-85(a)(2) for aiding and abetting Shanita Cunningham in the abuse of the victim. State v. Smith, 359 S.C. 481, 597 S.E.2d 888 (2004).



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1 were a couple and had been for several years. The  
2 victim was coming for visitation, the victim, the  
3 three year old.

4 THE COURT: When you say visitation, what  
5 kind?

6 MS. GORDON: She was just coming for a visit  
7 with her mother's friend and Erica and Shanita had  
8 a child Maury, which was actually Shanita's child.  
9 Serenity kind of considered Maury like a sister and  
10 so she looked forward to seeing Maury who she  
11 really loved. She came for a visit and planned to  
12 stay for maybe a month or so.

13 On November the 3rd of 2009 there was a 911  
14 call. That call was placed by Erica Butts' mother.  
15 When EMS arrived they found the child to have  
16 bruises, marks, scars, cuts, contusions, all over  
17 her body, some fresh, some old. At the time of  
18 EMS' arrival the child had a rectal temperature of  
19 82.9 degrees. She had expired long before 911 was  
20 ever called.

21 As the investigation continued it was  
22 learned that both Shanita and Erica had been  
23 spanking the child since she arrived for numerous  
24 occasions of peeing on the floor.

25 Your Honor, I passed up a CD from the

1 autopsy. The autopsy indicates that this child was  
2 beaten, she was beaten to death. There was not a  
3 place on her body that was spared, absent the soles  
4 of her feet. She had a gash to the back of her leg  
5 to which Miss Cunningham admits to inflicting but  
6 saying she didn't even realize she had done it.  
7 The State contended if you are beating a child to  
8 the point you don't even realize you caused that,  
9 that there is no telling what else you could have  
10 been doing to that child.

11 Your Honor, they did a search warrant of the  
12 home. There was blood that matched Serenity's on  
13 the walls and on the couch, there were numerous  
14 broken hangers found in the bathroom and in the  
15 closets and if you have read even Shanita's  
16 statement and according to Erica, these two  
17 basically watched while the three year old girl  
18 died. She was unresponsive, her eyes were closed,  
19 they could not awaken her and instead of calling  
20 for help or seeking medical attention for her they  
21 tried to protect themselves and did nothing. It  
22 wasn't until Erica was apparently freaking out and  
23 she called her mother and when her mother came over  
24 her mother said they had to call 911.

25 Your Honor, based on that, we would ask for

1 the maximum sentence.

2 The victim's family is here and I think they  
3 would like to speak and they have provided me with  
4 just some photographs of the child from just, just  
5 to show what a beautiful child she was.

6 Your Honor, I failed to mention one thing.  
7 When EMS arrived Miss Cunningham was gone, she had  
8 fled. She had stated to police when the police  
9 were calling her and telling her to come back, she  
10 had stated she was leaving with Maury, she was on  
11 her way to Michigan. As it turns out she had never  
12 left so she was just not complying with the police  
13 requests and commands to come back. Telephone  
14 records indicated she had never left Charleston,  
15 she was in a hotel in Ladson, she has since  
16 admitted to that, she was not out of state but she  
17 did lie to police and say she was already halfway  
18 to Michigan and she was in Ohio. Your Honor, if I  
19 may also submit the pathologist indicated these  
20 injuries did not occur at one time. This was a  
21 culmination of a continual beating. The estimation  
22 was about two weeks, which just happened to  
23 coincide with the exact amount of time this child  
24 had been in Shanita and Erica's care.

25 THE COURT: I will be glad to hear anything

1 understand. I just seek peace of mind, I need  
2 peace of mind and Serenity gave me that, if only  
3 for three years. Your Honor, please, please,  
4 please, I agree that the maximum sentence should be  
5 imposed and I'm sorry that that is the way I feel  
6 and I know, this is going to be hard on me, it is  
7 going to be hard on everybody.

8 MS. GORDON: Your Honor, I think that is all  
9 the family that is going to speak. I would like to  
10 add, you know, sometimes we get homicide by child  
11 abuse cases where the child usually has a head  
12 injury when someone has lost their temper one time  
13 and the child got struck or hit and it turns out to  
14 be a fatal blow. This case is different. This  
15 wasn't lose their temper one afternoon. This was  
16 repeated conduct over two weeks. I mean, they  
17 literally beat the child to death and then sat  
18 around and did nothing, so every day that they beat  
19 that child was another conscious decision to choose  
20 their life over Serenity and we would ask you to  
21 take that into consideration.

22 THE COURT: Is there any indication as to  
23 why, what precipitated these beatings?

24 MS. GORDON: The only information we have is  
25 just from the defendants themselves saying that she

1 peed on the floor and she was getting beaten for  
2 having an accident. She was three, she was potty  
3 trained, Your Honor, which I have spoken to the  
4 pathologist, the child at the end, I don't know  
5 when this injury occurred because they could not  
6 date it specifically, but she had such an injury  
7 and you could see it in one of the autopsy  
8 photographs right above her pelvis, that it's  
9 possible that she had lost control of her bladder  
10 because of the beating and so their own beatings  
11 precipitated additional beatings.

12 THE COURT: Is there any indication the other  
13 child in the home had any problems?

14 MS. GORDON: The other child in the home gave  
15 a forensic interview of what she heard happen in  
16 the house.

17 THE COURT: How old was she?

18 MS. GORDON: That child I believe was seven  
19 at the time.

20 MS. WOOSLEY: She was eight, Your Honor.

21 MS. GORDON: I apologize. She did not have  
22 physical injuries, Your Honor. Serenity was, for  
23 whatever reason, the target.

24 THE COURT: She indicated she had observed or  
25 heard some of what was going on?

1 I got a call from my mother and father in Miami,  
2 and we were at our business that night, we closed,  
3 closed early because it was just unbelievable. The  
4 Richardson family and Tee family, we ask for the  
5 maximum. That is what we ask,.

6 MS. GORDON: Your Honor, Detective Williams  
7 who was the lead detective may also want to speak.

8 THE COURT: Certainly. Oh, I'm sorry,  
9 ma'am, I apologize.

10 CASANDRA WILLIAMS: Good morning, Your Honor.  
11 Two years ago today a three year old was seen  
12 lifeless in the hospital bed, her body wasn't  
13 soiled but it was covered in scars each scar tells  
14 a story of how she was beaten, whipped without  
15 love, without compassion in every disregard. With  
16 that being said, those pictures, those reports you  
17 may read, they don't compare to what we saw. I  
18 hope that you give the maximum that the court will  
19 allow to these two people.

20 THE COURT: Ma'am, tell is your full name.

21 THE WITNESS: Casandra Williams.

22 THE COURT: Thank you.

23 MS. GORDON: Just so the record will reflect,  
24 Detective Tiffany Snapp who also worked on the case  
25 is present in the courtroom today, Summerville

1 aggressive in her behaviors toward Miss Butts who  
2 remained fearful. Now, in my practice I tried very  
3 hard to expand on that to see if my client would  
4 open up to me about some stuff that maybe I could  
5 provide to the psychologist to help her create  
6 maybe a battered woman syndrome defense. Erica  
7 would never do that, she would never tell me  
8 anything bad about Miss Cunningham, she loves her  
9 and has loved her for years and what happened in  
10 that house that day, whether they both just, I  
11 think what the worst part is there is no specific  
12 incident that led to death. I mean, as the coroner  
13 reported, it was a history of, you know, bad  
14 beatings that resulted in a little tiny child  
15 being, her immune system being diminished as she  
16 was being beat, but there is no specific incident  
17 that you can say Erica, can you tell me what  
18 happened two hours before, three hours before that  
19 would have led to this child dying. There was the  
20 situation where she fell in the bathtub or  
21 something, there was blood in the bathtub, but it  
22 is very possible that there was this big bruise on  
23 the back of her head and Erica described it as a  
24 fall in the bathtub and then there was an area on  
25 the back of her leg which I know you have seen

1 pictures, which was horrible looking and Miss  
2 Cunningham has admitted at some point she  
3 administered a beating that led to some bad injury  
4 and I believe that after that point they both say  
5 that they treated it with alcohol which I think  
6 made the skin just, you know, degenerate or  
7 something because.

8 THE COURT: I can't imagine you would use  
9 alcohol, it must have been excruciating.

10 MS. GAY: They tell me, think what ended up  
11 ultimately happening, it may very well be that  
12 situation really diminished the child's immune  
13 system. I'm not making any excuses for what went  
14 on in that household in the eleven days, she has  
15 never denied that she was there, that she  
16 participated, but the problem is that she can't  
17 give me as her defense attorney a specific beating  
18 that would have led to something that looks like  
19 what is in the pictures and that is the truth and I  
20 have sent her to two different psychiatrists and  
21 psychologists trying to see if there is something  
22 that I'm missing, some kind of version of the facts  
23 that I'm missing and she has admitted her  
24 responsibility, she's pled guilty, she's here today  
25 to beg for mercy but she's so mild and so meek and

STATE OF SOUTH CAROLINA  
IN THE SOUTH CAROLINA COURT OF APPEALS  
APPEAL FROM CHARLESTON COUNTY  
HONORABLE DEADRA L. JEFFERSON  
CASE NO.: 2013-000-218

STATE OF SOUTH CAROLINA, RESPONDENT

VS.

ERICA BUTTS

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SC Court of Appeals

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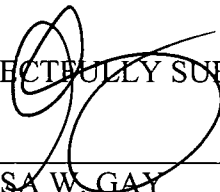
**CERTIFICATE OF SERVICE**

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The undersigned attorney and does attest that she sent a copy of the Memorandum of Issues by United States Postal Service to the following:

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RESPECTFULLY SUBMITTED

  
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