

Exhibit C

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

-V-

THE STATE OF SOUTH CAROLINA

Table of Authorities

6<sup>th</sup> Amendment U.S.C.A

14<sup>th</sup> Amendment U.S.C.A

Chapter 13 Title 21 of 24

Strickland -v- Washington, 446 U.S 668 (1984)

Ezell-v-State 345. S.C 312. 548 S.E.2.d. 852. (2001)

Southerland -v-State, 337 S.C. 610, 524 S.E 2d. 833 (1999)

Smith -v-Rubbins, 528 U.S .259, 288, 120. S; C.t. 746. 765 145 L. Ed 756 (2001)

Vickery-v- State, 258 S.C. 33, 186. S.E. 2d. 827 (1972)

Pittman -v-State, 337 S.C. at 599, 524 S.E 2d. at 624

Judge-v-State, 321. S.C 554, 471, S.E. 2d. 146 (1996)

Thompson -v-State, 340, S.C. 112. 531. S.E. 2d. 294 (2000)

Respectfully Submitted,



Erica Butts

January 15, 2014

14

SWORN TO AND SUBSCRIBE BEFORE ME

ON THIS 15<sup>TH</sup> DAY OF January 2014

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

*Vickie R. Padgett*

*August 25, 2015*

MY COMMISSION EXPIRES

RECEIVED

JAN 16 2014

SC Court of Appeals

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

AFFIDAVIT OF SERVICE

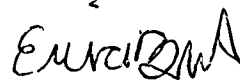
VS

THE STATE OF SOUTH CAROLINA

I declare under penalty of perjury that, the following documents are enclosed for the purpose of review of the appeal

Designation of matters	
Notice of Intent to Appeal	(Exhibit A)
Appeal Brief	(Exhibit C)
Motion to Alter the Judgement F.R.C.P Rule 59@	(Exhibit B)
2 Letters from Attorney Gay	(Exhibit D)
1 Copy of Order of Dismissal of Appeal	(Exhibit E)
1 Brief sent to courts of Appeal on S.C.A.C.R Rule 21(b)	(Exhibit F)
3 Affidavits of Service on Attorney Gen. SC ct.	

Respectfully Submitted,



Erica Butts  
January 14, 2014

SWORN TO AND SUBSCRIBE BEFORE ME  
ON THIS 14<sup>TH</sup> DAY OF January 2014  
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

Vickie R. Padgett  
August 25, 2015  
MY COMMISSION EXPIRES

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

-V-

THE STATE OF SOUTH CAROLINA

STATEMENT OF THE CASE

The Appellant's Plead Guilty to Homicide by Child Abuse. Appellant plead guilty on advice of attorney and family member.

Appellant's guilty plea was enter on theory that, she would only receive 20 years for the crime.

The Appellant discovered after trial that, she did not sign a Plea Agreement Deal therefore her guilty plea, would appear to be freely giving. The appellant states that she would not have plead guilty knowing that she would receive a life sentence. The appellant state's that she has mitigating factors of evidence that contributed to her crime, and other applicable charges could've been presented for her defense. The appellant was under the influence of Prescription drugs, and marijuana she was intoxicated at the time crime occurred.

Respectfully Submitted,



Erica Butts  
January 14, 2014

SWORN TO AND SUBSCRIBE BEFORE ME  
ON THIS 14<sup>TH</sup> DAY OF January 2014  
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

*Vivian R. Padgett*  
*August 25, 2015*

MY COMMISSION EXPIRES

Exhibit A

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

VS

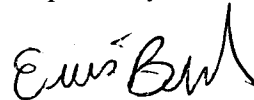
THE STATE OF SOUTH CAROLINA

Appeal No: 2013-00218  
Notice of Intent to Appeal; Pursuant  
To S.C.A.C.R Rule 203(b)(1)  
Proof of Service

The Appellant files this Notice of Intent to Appeal the order of Dismissal of her direct Appeal. Order of dismissal December 23, 2013, Pursuant to 203 (d)(1)(B)(IV) .S.C.A.C.R. Rule 221 (b) by the South Carolina Courts of Appeal, presiding Judge the Honorable Judge J.W. Curton.

The Appellant received notice on January 10, 2014. Defense Attorney Ms. Gay sent letter of Dismissal on January 6, 2014.

Respectfully Submitted,



Erica Butts  
January 14, 2014

SWORN TO AND SUBSCRIBE BEFORE ME  
ON THIS 14<sup>TH</sup> DAY OF January 2014  
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

*Vicki R. Padgett*  
*August 25, 2015*

MY COMMISSION EXPIRES

Cc: Attorney Gen  
S.C Court of Appeals  
S.C Supreme Court

Exhibit B

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

VS

THE STATE OF SOUTH CAROLINA

Appeal No: 2013-00218  
Motion to Alter the Judgment  
Pursuant to federal Rule C.P. Rule 59@  
Affidavit of Service

The Appellant files this Motion to Alter the Judgment of the lower courts.

Ground (1) S.C Courts of Appeals Judgment is in valid. When a State stature codifies with a federal C.P.R it becomes valid.

(2) The Appellant was deprived of due process of law appellate defense counsel and trial counsel, did submit a defective appeal brief, to prevent the appellant from over turning her conviction.

(3) The Appellant was prejudice by Appellate counsel in ineffective, for failing to raise an arguable brief on merits of her appeal.

Respectfully Submitted,



Erica Butts  
January 14, 2014

SWORN TO AND SUBSCRIBE BEFORE ME  
ON THIS 14<sup>TH</sup> DAY OF January 2014  
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

*Vivian R. Padgett*

*August 25, 2015*

MY COMMISSION EXPIRES

Exhibit C

THE STATE OF SOUTH CAROLINA IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY  
S.C. COURT OF APPEALS  
J.W. CURTON P.J.  
2013-00218 APPEAL NO:

NOTICE OF INTENT TO APPEAL  
PURSUANT TO S.C.A.C.R. 203(1)  
AFFIDAVIT OF SERVICE

ERICA BUTTS #348484

APPELLANT

VS

THE STATE OF SOUTH CAROLINA      RESPONDENT

The Appellant hereby certifies under penalty of perjury that a true copy of the notice of Intent to Appeal has been served upon opposing counsel, Attorney Gen at P.O. Box 11549, Columbia, S.C. 29211; on this 14<sup>th</sup> day of January 2014

Respectfully Submitted,



Erica Butts,  
January 14, 2014

SWORN TO AND SUBSCRIBE BEFORE ME  
ON THIS 14<sup>TH</sup> DAY OF January 2014  
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

*Viebia R. Padgett*

August 25, 2015  
MY COMMISSION EXPIRES

Cc: S.C. Court of Appeals  
S.C. Supreme Court

Exhibit C

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

VS

THE STATE OF SOUTH CAROLINA

APPELLANTS BRIEF ON  
ISSUES RAISE

14<sup>TH</sup> AMENDMENT U.S.C.A

6<sup>TH</sup> AMENDMENT INEFFECTIVE ASST.

APPELLATE COUNSEL

The Appellant raise issue of the 14<sup>th</sup> Amendment U.S.C.A Denial of Due Process of Law in lieu of the 6<sup>th</sup> Amendment U.S.C.A. Ineffective Assistant of Appellate counsel.

Appellate counsel was deficient for failing to raise and issue and whether the Appellant was prejudiced from the failure to raise the issue.

Appellate counsel may also be ineffective for failing to make a record sufficient for review.

Appellate counsel submitted a Defective appeal brief in conjunction; with concealing evidence of a material fact relating to the Guilty Plea was based on the concept of Attorney Gay, as well as mother. The Appellant plead guilty not knowing that she would receive the maximum amount of time, a life sentence arising from a guilty plea is observed. What would be the purpose of pleading guilty, when she could've gone to trial as well as, to have Jury Instructions on changes of Involuntary Intoxicant Defense (S.C. Code Ann Law) (20-10-30); Also chapter 13 Title of 24. Pursuant to C.D.V. Act, to allow the Appellant to have a Parole date after serving ¼ of her prison term. Quoting case laws of precedent.

Pursuant to article III S 17 Act 83 trial Judge is required to sentence a defendant under the Statute's of his crime, yet not to be overly excessive in sentencing. The Appellant can show that trial judge issued a sentence without a careless regards to her guilty plea. This is to say that even if the appellant had gone to Jury Trial judge's sentence would've been identical to this sentence; However The Appellant was entitled to a modification to her sentence, pursuant to chapter 13 Title 21 of 24 because her crime related to a household member although she was not the Biological-Mother the deceased lived in her apartment in her care; Therefore she appellant was entitled to have a parole date after serving ¼ of her sentence appellate defense counsel was ineffective when he failed to raise that issue. Quoting EZELL-V-STATE, 345 S.C.312, 548 S.E. 2d, 852. (2001) In EZELL-V-STATE the Supreme Court found that the appropriate remedy for ineffective assistance of Appellate counsel was and is a New Trial. Quoting STRICKLAND -V- WASHINGTON. 466 U.S. 668 (1984). The Supreme Court ruled that when an attorney fails to meet these standards, the appellate attorney is said to have rendered deficient performance or Id. At 685; Id at. 688. Quoting. SOUTHERLAND-V-STATES 337 S.C. 610, 524 S.E. 2D, 833. (1999) The Supreme Court Ruled, in assessing a claim of ineffective assistance of Appellate-counsel, courts apply the STRICKLAND test to determine, if appellate counsel was, deficient for failing to raise an issue and whether the defendant was prejudice, from the failure to raise the issue. Quoting, SMITH-V-ROBBINS 528. U.S. 259, 288, 120 S. Ct. 746, 765, 145 l. Ed. 2d. 756(2000)

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

- VS -

THE STATE OF SOUTH CAROLINA

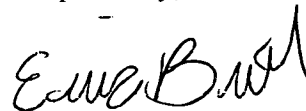
In SMITH-V-ROBBINS, The Supreme court ruled that appellate counsel may render ineffective assistance for failure to present an issue on appeal Quoting; VICKY-V-STATE, 258, S.C. 33. 186 S.E. 2d. 827 (1972) when trial court failure to put on record as the burden of proof, as in written documents, of exhibits or memorandums or motions enter in lieu of the Guilty Plea, prior to the Guilty Plea Trial; pursuant to S.C.R. crimp Rule 11, there must be written proof of guilty pleas entered in agreement by the solicitor defense attorney, and defendant.

They all must sign affidavit, to the guilty plea. QUOTING-PITTMAN-V-STATE, 337. S.C. 597, 524. S.E. 2d, 623

The Supreme Court of South Carolina Ruled, that The Supreme Court requires a defendant entering a guilty plea be made aware of the nature of the constitutional rights, and crucial elements on the offense, the maximum and minimum penalty, in order to secure the defendants are fully aware of their constitutional rights in which he is waiving. Quoting-JUDGE-V-STATE, The Supreme Court held that counsel may be ineffective for failing to reject a guilty plea offer. In the appellant's case the trial counsel was ineffective, for failing to object to a life sentence in exchange, for the appellant's Guilty Plea, she appellant was prejudice by counsel failure to withdraw Guilty Plea, Quoting THOMPSON-V-STATE, 340, S.C. 112, 531 S.E. 2d. 294 (2000) counsel may be ineffective for, failure to move, for withdrawal of a Guilty Plea, where the Government fails to fulfill its promises under the Guilty Plea. Quoting. S.C.A .C.R Rule 11. Guilty Plea deals must be signed by solicitor, counsel and defendants in order, for the Guilty Plea to be valid.

The Appellant petitions this court to reverse the lower courts Ruling pursuant to F.R.C.P. Rule 59@ and grant a new trial.

Respectfully,



Erica Butts  
January 14, 2014

SWORN TO AND SUBSCRIBE BEFORE ME  
ON THIS 14<sup>TH</sup> DAY OF January 2014  
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

*Vickie R Padgett*

August 25, 2015  
MY COMMISSION EXPIRES

Exhibit C

IN THE SOUTH CAROLINA SUPREME COURT

ERICA BUTTS #348484

-V-

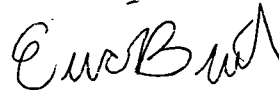
THE STATE OF SOUTH CAROLINA

6<sup>th</sup> Amendment U.S.C.A  
14<sup>th</sup> Amendment U.S.C.A

ISSUE RAISE FOR REVIEW

1. Whether Appellate Defense Counsel Prejudiced the Appellant's Appeal, by submitting a defective appeal Brief
2. Whether Appellate Defense Counsel limined out of Court, the Guilty Plea Contract
3. Whether Appellate Defense Counsel Prejudiced the Appellant's Appeal. When he failed to submit copies of the written Exhibits, Introduced at trial waiver of jury trial, pre-trial evidence, written Guilty Plea.
4. Whether Appellate Defense Counsel, Prejudice the Appellant's Appeal when he failed to file a motion Pursuant to S.C.A.C.R Rule 211 (b) to amend the record and Pleadings on the merit of perfecting the Appeal.
5. Whether Appellate Defense Counsel deprived the Appellant of Due Process of law, by failing to accure copies of all motions, exhibits reflecting the guilty plea contract agreement or consent to Plead Guilty. There is no physical proof that the Guilty Plea was freely giving there must be written proof, Pursuant to Rule 11. of S.C.R.C.P Rule 11, A.B.C. (1-2-3 paragraph 4)

Respectfully Submitted,



Erica Butts  
January 14, 2014

SWORN TO AND SUBSCRIBE BEFORE ME  
ON THIS 14<sup>TH</sup> DAY OF January 2014  
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

*Vickie R. Padgett*

*August 25, 2015*

MY COMMISSION EXPIRES

# The South Carolina Court of Appeals

The State, Respondent,

v.

Erica Butts, Appellant.

Appellate Case No. 2013-000218

---

## ORDER

---

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc:

Melissa White Gay, Esquire  
Robert Michael Dudek, Esquire  
Salley W. Elliott, Esquire

FILED  
12/23/13

Melisa W. Gay, LLC  
Attorney and Counselor at Law

Melisa W. Gay

Post Office Box 2144  
Mt. Pleasant, South Carolina 29465-2144

Office (843) 856-0580  
Facsimile (843) 856-0590

January 6, 2014

**Via U.S. Mail**

Erica Mae Butts – Inmate #348484  
Dorm #ZNG0017A  
CGGCI  
4450 Broad River Road  
Columbia, SC 29210

Dear Ms. Butts:

Enclosed is an Order from the South Carolina Court of Appeals. The Order dismisses your appeal due to insufficient explanation of Appellate issues. As you are aware, I submitted issues on your behalf, however the Court has determined that your guilty plea was in fact voluntarily entered into at the time of your plea.

You are entitled to file a Post Conviction Relief Petition. I wish you the best.

Sincerely,

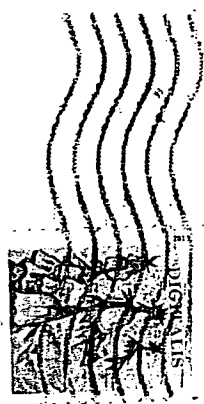


Melisa W. Gay

Enclosure

**Melisa W. Gay, LLC**  
Attorney and Counselor at Law  
P.O. Box 2144  
Mt. Pleasant, SC 29465

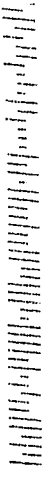
CHARLESTON SC 294  
06 JAN 2014 PM 3 T



RECEIVED  
JAN 16 2014  
SC Court of App

2921034013  
Dear Mr & Mrs Butts -  
Invoice 3481184  
Don # ~~21060017A~~ <sup>RR</sup>  
CGG CI  
4450 Broad River Road  
Columbia SC 29210

HS 75 248484



d River Rd

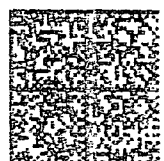
S.C. 29210

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

SCDC

JAN 15 2014

MAIL ROOM



UNITED STATES POSTAGE  
EAGLE  
FIRST CLASS  
PERMIT NO. 1000  
COLUMBIA, SC  
\$01.32  
02 1M  
0008001103 JAN 15 2014  
MAILED FROM ZIP CODE 29210

132

RECEIVED

JAN 16 2014

SC Court of Appeals