

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Sumter County

Honorable George M. McFaddin, Circuit Court Judge  
\_\_\_\_\_

ORIGINAL

THE STATE,

RESPONDENT,

v.

SABRINA ANN MCWILLIAMS,

RECEIVED  
MAR 14 2018  
SC Court of Appeals  
APPELLANT

APPELLATE CASE NO 2017-001427  
\_\_\_\_\_

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**

The trial judge erred in denying appellant's motion for a directed verdict of acquittal on the burglary charge based on a sufficiency of the evidence challenge because appellant had permission to enter and remain in the home to perform her cleaning duties as a maid and therefore did not enter the home unlawfully without consent.

## **STATEMENT OF THE CASE**

Appellant Sabrina A. McWilliams was convicted of first degree burglary, conspiracy, and attempted armed robbery during the June 2017 term of the Sumter County General Sessions Court before Judge George M. McFaddin. Jason Bridges represented appellant at trial and Assistant Solicitor Jason Corbett appeared on behalf of the state. Judge McFaddin sentenced appellant to imprisonment for an aggregate term of fifteen years.

Appellant appealed his conviction and sentence. This brief follows.

## ARGUMENT

The trial judge erred in denying appellant's motion for a directed verdict of acquittal on the burglary charge based on a sufficiency of the evidence challenge because appellant had permission to enter and remain in the home to perform her cleaning duties as a maid and therefore did not enter the home unlawfully without consent.

Homeowner George Aycock testified that appellant was his housekeeper during the time frame in question, and that she (appellant) was inside his home cleaning on the morning of September 26, 2014, when he was assaulted. Dr. Aycock stated that he was inside his home also on that date, and that when he came downstairs per appellant's request to inspect the vacuum cleaner, he was hit on his head with a hammer by an intruder who had come into his home. Dr. Aycock stated that he asked appellant to call the police to report the assault after the assailant fled. Dr. Aycock stated that he did have prescription medicines (oxycontin) and (Roxicodone) in his house to ease the pain he had been experiencing after his neck surgery. R. 92, l. 4 – R. 114, l. 20.

State's Whitnii Milhorn testified at trial and explained that she was supposed to "help [appellant] clean [Dr. Aycock's] house" on September 26, 2014, and at some point she took a hammer and hit Dr. Aycock on his head. R. 122, l. 10 – R. 123, l. 25; R. 161, l. 5-25. Milhorn stated that when appellant could not find Dr. Aycock's pills, then she (appellant) wanted her to rob Dr. Aycock. R. 180, l. 18 – R. 181, l. 1; R. 195, l. 22 – R. 196, l. 12. Milhorn explained that she went to Dr. Aycock's house with appellant on that date in question. R. 197, ll. 18-25. Milhorn stated that she had problem with prescription pills and that she had sought rehabilitation due to her struggle with pain medication dependence. R. 131, l. 16 – R. 134, l. 16. Milhorn stated that she assaulted Dr. Aycock to get him under control so that she could take the pills out

of his pocket (R. 177, l. 23 – R. 178, l. 1) because appellant informed her that they were in his pocket, but that she was not able to get anything out of his pocket. R. 135, l. 8-22. Milhorn stated that she got inside Dr. Aycock's home with appellant through the front door with appellant and that it was appellant who let her inside. R. 176, l. 22 – R. 177, l. 6. Milhorn explained that she and appellant went inside together when they arrived at Dr. Aycock's house. R. 194, l. 12 – R. 195, l. 5.

Apparently, the plan was for Milhorn to get to Dr. Aycock's house after collecting appellant and then Milhorn said she would do it, i.e., get Dr. Aycock's pain medication. R. 161, l. 2-24. Milhorn stated that she ran out of the house after hitting Dr. Aycock. R. 198, l. 16 – R. 199, l. 12. Milhorn stated that she was cleaning while appellant looked for the pills. R. 200, l. 15 – R. 201, l. 18; R. 205, l. 17-24. Milhorn stated that appellant went through the front door and that she followed appellant inside and that Dr. Aycock was upstairs. R. 206, l. 9 – R. 207, l. 22.

Appellant did not testify at trial, but she gave a statement indicating that someone (Milhorn) hit Aycock in the head on the day in question. R. 226, l. 13 – R. 255, l. 10.

At the close of the case, defense counsel moved for a directed verdict of acquittal on the burglary charge against appellant on the ground that she (appellant) had consent to be in Dr. Aycock's house. R. 283, l. 21 – R. 284, l. 20; R. 287, l. 20 – R. 288, l. 13. The state argued the theory of accomplice liability with respect to the burglary charge. R. 284, l. 22 – R. 287, l. 6. The trial judge denied the motion. R. 288, ll. 14-17.

The elements of first degree burglary under S.C. Code Ann. §16-11-311 include the following:

(A) A person is guilty in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling either:

(1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

(a) is armed with a deadly weapon or explosive; or

(b) causes physical injury to a person who is not a participant in the crime or

(c) uses or threatens the use of a dangerous instrument; or

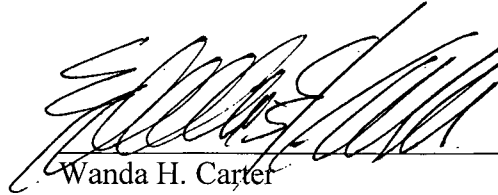
(d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms; or

(2) the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both

In the case at bar, it was clear that the state did not establish the element of appellant's entry into Dr. Aycock's house without consent. To the contrary, appellant entered in Dr. Aycock's house with his consent on that day and other days as an employee who was paid to clean his house. This fact was not denied by Dr. Aycock or appellant or Milhorn. Appellant had permission to be inside Dr. Aycock's house, and since Milhorn accompanied appellant to and inside in order to clean as well, then via agency and partnership, Milhorn had consent also to enter Dr. Aycock's house. This agency and partnership negated the state's accomplice liability claim. Clearly, the state did not present sufficient evidence of proof beyond a reasonable doubt of all elements of the offense of burglary charged against appellant. See Jackson v. Virginia, 443 U.S. 307 (1979). A judge should grant a directed verdict motion when there is a mere suspicion that the accused is guilty. State v. Moore, 374 S.C. 468, 649 S.E.2d 84 (2007).

**CONCLUSION**

Based on the foregoing argument, appellant's burglary conviction should be vacated.

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

Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of March, 2018.

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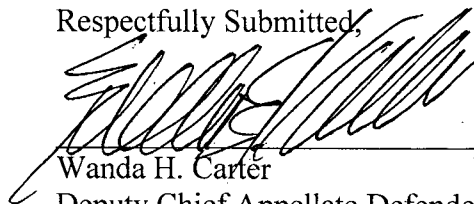
\_\_\_\_\_  
PETITION TO BE RELIEVED AS COUNSEL  
\_\_\_\_\_

Counsel for Sabrina Ann McWilliams states that:

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 George M. McFaddin, which was held on June 19 - 21, 2017, 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 Sabrina Ann McWilliams.

Respectfully Submitted,



\_\_\_\_\_  
Wanda H. Carter  
Deputy Chief Appellate Defender  
ATTORNEY FOR APPELLANT

This 14th day of March, 2018.

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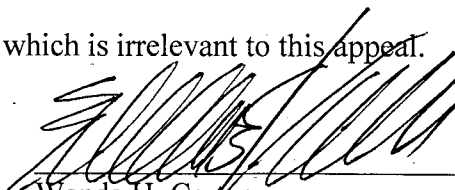
**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

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

- (1) Transcript dated June 19, 2017 pages 1-37
- (2) Transcript dated June 19-21, 2017 pages 1-320
- (3) True-billed indictments:

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

March 14, 2018

  
Wanda H. Carter  
Deputy Chief Appellate Defender

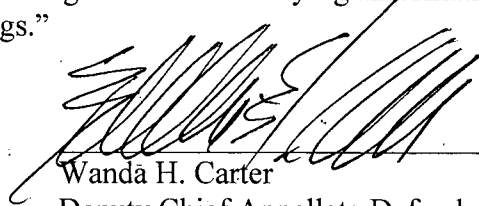
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**CERTIFICATE OF COUNSEL**

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."

March 14, 2018.



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