

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM PICKENS COUNTY

G. Edward Welmaker, Circuit Court Judge

RECEIVED

NOV 04 2013

THE STATE,

SC Court of Appeals

RESPONDENT,

V.

WANDA E. PATTERSON,

APPELLANT

APPELLATE CASE NO. 2013-000062

RECORD ON APPEAL

BENJAMIN JOHN TRIPP
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorney for Appellant

Attorneys for Respondent

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STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,	)	
	)	2012-GS-39-02443
PLAINTIFF,	)	
	)	
-VS-	)	NOVEMBER 29, 2012
	)	
WANDA E. PATTERSON,	)	
	)	TRANSCRIPT OF RECORD
DEFENDANT.	)	
_____	)	

B E F O R E

THE HONORABLE G. EDWARD WELMAKER, JUDGE

A P P E A R A N C E S.

JENNY BARWICK, ESQUIRE
ATTORNEY FOR THE STATE

TEAL JOHNSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

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E X H I B I T S

(NONE)

1 **November 29, 2012**

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had.)

4 THE CLERK: 2012-GS-39-2443, the State versus
5 Wanda Patterson, indicted for financial transaction card
6 theft. Raise your right hand, please.

7 (WHEREUPON, the Defendant's right hand was raised.)

8 THE CLERK: Do you solemnly swear or affirm that
9 the testimony you're about to give is the truth, the whole
10 truth and nothing but the truth, so help you God?

11 MS. PATTERSON: Yes, I do.

12 THE COURT: Ms. Johnson, you represent Ms.
13 Patterson in this matter?

14 MS. JOHNSON: I do, Your Honor.

15 THE COURT: Have you discussed with her the
16 charge pending against her, the possible punishment she
17 faces and her Constitutional rights?

18 MS. JOHNSON: I have, Your Honor.

19 THE COURT: Do you believe she understands those
20 discussions?

21 MS. JOHNSON: I do, Your Honor.

22 THE COURT: Do you believe the State could prove
23 her guilt beyond a reasonable doubt if a trial were held?

24 MS. JOHNSON: I do, Your Honor.

25 THE COURT: Ms. Patterson, how old are you,

1 please?

2 THE DEFENDANT: Fifty-two years old.

3 THE COURT: Are you married?

4 THE DEFENDANT: No, sir.

5 THE COURT: Do you have children?

6 THE DEFENDANT: I have two boys.

7 THE COURT: Are they adults or minors?

8 THE DEFENDANT: Adults.

9 THE COURT: Are you employed anywhere?

10 THE DEFENDANT: No, sir, not at the time.

11 THE COURT: How far did you go in school?

12 THE DEFENDANT: Eleventh, but then I got my GED.

13 THE COURT: Where did you attend high school?

14 THE DEFENDANT: Easley High School.

15 THE COURT: Have you worked outside the home
16 during your adult life?

17 THE DEFENDANT: Somewhat.

18 THE COURT: What kind of work did you do?

19 THE DEFENDANT: Veterinary clinic.

20 THE COURT: Have you ever been treated for drug
21 or alcohol abuse?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: How long ago was your last
24 treatment?

25 THE DEFENDANT: About three years ago.

State of South Carolina -vs- Wanda E Patterson (2012-GS-39-02443)
Guilty Plea

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1 THE COURT: Was that in-patient or out-patient?

2 THE DEFENDANT: I don't know. In ---

3 THE COURT: Did you spend the night in some
4 facility?

5 THE DEFENDANT: In-patient.

6 THE COURT: How long did you stay?

7 THE DEFENDANT: Six months.

8 THE COURT: Did you complete the program?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you have any prescription drugs
11 or other substance of any kind in your body today?

12 THE DEFENDANT: No, sir.

13 THE COURT: Do you have any physical or mental
14 condition that would affect your ability to understand
15 what we're doing today?

16 THE DEFENDANT: No, sir.

17 THE COURT: You're aware of why we're here and
18 what the charge is about?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You've indicated you want to waive
21 the presentment of this case to the Grand Jury of Pickens
22 County and go ahead and take care of this matter today; is
23 that true?

24 THE DEFENDANT: Yes, sir.

25 MS. JOHNSON: Judge, she did want to tell the

1 Court that she is on prescription medication for
2 depression. She takes Celexa.

3 THE COURT: Okay. Does that medication that I
4 asked you about that you are taking, does that affect your
5 ability to understand what we're doing?

6 THE DEFENDANT: No, sir.

7 THE COURT: Does it help you to ---

8 THE DEFENDANT: Yes, sir.

9 THE COURT: This indictment says that on or
10 about March the 11th of this year, you took or obtained a
11 debit card from Peoples National Bank belonging to Dorothy
12 Loftis with the intent to use or transfer the card. Are
13 you pleading guilty to that theft today?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Solicitor?

16 MS. BARWICK: Thank you, Your Honor. On March
17 11th, 2012, in Pickens County the victim was in the Ingles
18 parking lot at the rear of her vehicle, placing groceries
19 into the trunk. The Defendant approached the victim and
20 asked the victim if the store was busy. The Defendant
21 then walked up to the victim's driver's door, reached in,
22 grabbed the victim's wallet. The victim's wallet
23 contained her debit card. When the victim tried to get
24 her wallet back, the Defendant got into her car and fled,
25 almost dragging the victim with her vehicle. Those are

1 the facts, Your Honor. There is no recommendation.

2 THE COURT: Ms. Patterson, you heard the facts
3 recited by the Solicitor. Are those substantially the
4 facts to which you're pleading today? Is that the way it
5 happened or substantially? That you took ---

6 THE DEFENDANT: I took the billfold out of her
7 car, but there was no confrontation at all.

8 THE COURT: Okay. She was there when you took
9 it?

10 THE DEFENDANT: Yes, sir, she was at the back of
11 her van.

12 THE COURT: And you didn't know her?

13 THE DEFENDANT: No, sir.

14 THE COURT: You understand that by pleading
15 guilty to this charge you're giving up your right to have
16 a trial by jury?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: A jury could be empaneled. The
19 State would have the full burden of proof. They'd have to
20 convince that jury of your guilt beyond a reasonable
21 doubt. Since you'd be presumed innocent, you could remain
22 silent. You'd have a right in a trial to call witnesses
23 in your own behalf if you wanted to put up a defense.
24 You'd have a right to cross-examine the State's witnesses
25 and challenge the evidence the State offers. You have

1 these and substantial other rights, but all those you give
2 up by pleading guilty. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And that's what you want to do?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you satisfied with the
7 representation your lawyer has given you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Has she done everything to defend
10 you that you've asked her to do?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you met with her as often and
13 as long as you feel necessary?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you've understood those
16 discussions?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you have any complaints
19 whatsoever about her representation?

20 THE DEFENDANT: No, sir.

21 THE COURT: Has anybody threatened you to get
22 you to plead guilty today?

23 THE DEFENDANT: No, sir.

24 THE COURT: Has anybody promised you anything by
25 way of reward or sentence or otherwise to entice you to

State of South Carolina -vs- Wanda E. Patterson (2012-GS-39-02443)
Guilty Plea

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1 plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you pleading guilty then of your
4 own free will?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you pleading guilty because you
7 are guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you understand you could be
10 sentenced to up to five years in jail for this?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you understood the questions
13 I've asked?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have you been truthful in your
16 answers to me?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: The law gives you a right if you
19 meet our Appellate Court rules to appeal this proceeding
20 within ten days. If you can't afford an attorney, one
21 could be appointed for you. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I find there is a substantial
24 factual basis for the plea, that it has been freely,
25 voluntarily, knowingly, and intelligently made by Ms.

1 Patterson, with the advice of competent legal counsel with
2 whom she's expressed her satisfaction and I will accept
3 your plea.

4 Ms. Johnson, be glad to hear from you and certainly
5 from your client.

6 MS. JOHNSON: Thank you, Your Honor. May it
7 please the Court. Your Honor, Ms. Patterson shared with
8 me about this incident that she was disoriented, she was
9 experiencing hopelessness as a result of this depression
10 that she suffers from. She couldn't find a job. She
11 couldn't find transportation. She didn't have money for
12 gas. She was just in a no-win situation. Judge, since
13 this incident, she has been getting treatment for her
14 depression. She is going to Pickens Mental Health. She
15 actually had an appointment this afternoon that she had to
16 miss. She has a prescription for Celexa.

17 She did share with me that when she was younger she
18 was hit by a car and she also has a deformity in her hip.
19 And the deformity, I think, resulted in her begging
20 addicted to prescription pain pills in her earlier life,
21 which would account for her record, her previous record.
22 But I do want to share with the Court that other than a
23 DUI, she's stayed out of trouble since 2005. Judge, I do
24 want to share that she takes care of elderly parents. A
25 mother who is seventy-five, blind and diabetic. And a dad

State of South Carolina -vs- Wanda E. Patterson (2012-GS-39-02443)
Guilty Plea

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1 who is eighty years old. And I have documentation about
2 the mother's situation. Both are in the early stages of
3 dementia and Ms. Patterson is their only caretaker. She
4 is responsible for their care. She shares with me that
5 they take in eighteen thousand dollars a year and they
6 have no money to hire out.

7 Her sister, Cindy Hood, is present in the courtroom
8 and would like to address Your Honor at the appropriate
9 time. Judge, I do want to let the Court know that she
10 plans on finding employment. I have a letter that I would
11 like to submit to Your Honor. It's from the Outlaw
12 Veterinary Clinic and it sings her praises about what a
13 great employee she was a while ago and that if they do
14 have a position come available, that they will hire her.
15 I would like to submit that to Your Honor. She has been
16 attending The Bible Methodist Church and she is getting
17 treatment for her depression. Also, she spent seventy-
18 eight days at the Pickens County LEC on this charge. And
19 on a related charge, after she bonded out here, she spent
20 a hundred and five days in Anderson.

21 THE COURT: How related is that charge?

22 MS. JOHNSON: She was charged with financial
23 transaction card theft on here ---

24 THE COURT: Used the card in Anderson.

25 MS. JOHNSON: And used the card in Anderson.

1 Judge, and she received time served. I am not asking Your
2 Honor for a time-served sentence, but I am asking Your
3 Honor for a probationary sentence. I also have a note
4 from her parents because they couldn't be here today. But
5 her sister would like to address Your Honor at the
6 appropriate time.

7 THE COURT: All right. I'll certainly be glad
8 to hear from the sister. If you'd state your name for the
9 record, please, ma'am?

10 CINDY HOOD: Yes, Your Honor. My name is Cindy
11 Hood. First of all, I'd like to thank you for letting me
12 speak on behalf of my sister, Wanda Patterson. I just
13 wanted to let you know that since Wanda has been home and
14 staying with our parents, it's been a blessing for me.
15 She just -- there's just the two of us and she's the only
16 caretaker. We were having to try to seek other means of
17 having them cared for before she was able to do this
18 herself, because I did have to work a forty-hour job. I
19 have a husband that's disabled with multiple sclerosis and
20 I'm not able to do for my parents the way they need and
21 require without having to go into some type of assisted
22 type living or nursing home facility. She takes care of
23 their meals, their cleaning, their meds, everything.
24 Takes care of them. And to be honest with you if
25 something does happen that she has to go away again, I

State of South Carolina -vs- Wanda E. Patterson (2012-GS-39-02443)
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1 really don't know where it's going to put any of us
2 anymore. I just beg for your mercy and to take everything
3 into consideration.

4 THE COURT: Thank you. Ms. Patterson, anything
5 you want to tell me?

6 THE DEFENDANT: I'm sorry, Your Honor, for
7 anybody I've wronged. And I just pray you'll take mercy
8 and not make my family pay for my wrongdoings. I take
9 responsibility for everything ---

10 THE COURT: Well, I won't make your family pay
11 for your wrongdoings. You will be making your family pay
12 for your wrongdoings. Do you understand that?

13 THE DEFENDANT: I'm sorry. Yes, sir. That's
14 right, yes, sir.

15 THE COURT: What's the prior record, Solicitor?

16 MS. BARWICK: Yes, sir, Your Honor, it was a
17 1986 DUI, DUS; 2000, obtaining prescription drugs by
18 fraud; 2003, fraud; 2005, possession of cocaine,
19 fraudulent checks times forty-two. She received three and
20 a half years on that. She has a pending DUI. In 2006,
21 she had a federal distribution of oxycodone, and which she
22 received forty-two months. And, Your Honor, the State
23 would like to be heard on sentencing, as well.

24 THE COURT: I'll be glad to hear from you.

25 MS. BARWICK: Yes, sir, Your Honor. The

1 Defendant just told you that there was no confrontation
2 when this happened. There was an unrelated witness who
3 did give a statement that he had seen the Defendant take
4 the wallet, get in the car. Mr. Crocker stated that he
5 observed Ms. Loftis trying to get her wallet back, but
6 that the woman fled, almost dragging Ms. Loftis with the
7 vehicle. The victim's statement is -- and I know the
8 defense has stated that this is -- that she was, you know,
9 using pills and wasn't really aware of what she was doing.
10 This was a calculated, premeditated crime, Your Honor.
11 This is what the victim said. I pulled my grocery cart to
12 the back of my car. I told my granddaughter to take my
13 wallet and put it in the car and get in. The lady parked
14 beside me was sitting in her car, and as she got out, she
15 asked me if they were very busy inside. When I told her,
16 no, she came around behind my car where I was putting up
17 my groceries and commented on her hair as she was looking
18 at her reflection in my car window. I told her her hair
19 didn't look as bad as mine. And then as she walked off, I
20 saw she had my wallet and was getting in her car. I come
21 around and yelled, excuse me. I reached in the window and
22 I grabbed her, got her by the neck of her sweatshirt. She
23 started driving off with me still holding on.

24 THE COURT: When was the federal sentence you
25 said?

State of South Carolina -vs- Wanda E Patterson (2012-GS-39-02443)
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1 MS. BARWICK: 2006, Your Honor.

2 THE COURT: Forty months?

3 MS. BARWICK: Forty-two months.

4 THE COURT: Any time served on this?

5 MS. BARWICK: Yes, Your Honor. Ms. Johnson was
6 correct in saying seventy-eight days.

7 THE COURT: That's right. She told me that.
8 The victim's been notified?

9 MS. BARWICK: Yes, sir, Your Honor. We have
10 complied with the Victim's Rights Act. And just for the
11 record, I know Ms. Johnson wanted to put on the record,
12 the State is dismissing a purse snatching charge in
13 exchange for this plea.

14 MS. JOHNSON: Judge, if I may?

15 THE COURT: Yes, ma'am.

16 MS. JOHNSON: Judge, she's here pleading guilty
17 to the financial transaction card fraud or theft, excuse
18 me. We adamantly deny that she dragged or intentionally
19 dragged this victim ---

20 THE COURT: Well, she's not charged with that.
21 I'm not going to be considering that. Thank you.

22 MS. JOHNSON: Thank you, Judge.

23 THE COURT: No restitution is owed, I don't
24 guess?

25 MS. BARWICK: No, sir, Your Honor.

State of South Carolina -vs- Wanda E Patterson (2012-GS-39-02443)
Guilty Plea

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CERTIFICATE OF REPORTER

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I, the undersigned Danette P. Hanks, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Pickens County, South Carolina, on the 29th day of November, 2012.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 25, 2013

A handwritten signature in cursive script, reading "Susan Danette Hanks", written over a horizontal line.

Circuit Court Reporter

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA THE COURT OF GENERAL SESSIONS
COUNTY OF PICKENS THIRTEENTH JUDICIAL CIRCUIT

THE STATE 2013 DEC -5 2:33 M-079454

v

MOTION TO RECONSIDER
SENTENCE

WANDA EDENS PATTERSON,

DEFENDANT.

COMES NOW the Defendant, **Wanda E. Patterson**, by and through her undersigned counsel, and, pursuant to Rule 29 of the S.C. Rules of Criminal Procedure, respectfully moves this Honorable Court to Reconsider the Order of November 29, 2012 imposing the following sentence on Ms. Patterson pursuant to a plea to Financial Transaction Card Theft: Five years suspended to 28 months followed by Probation.

The following is submitted in support of Ms. Patterson's Motion:

1. Counsel for Ms. Patterson failed to ask for Home Incarceration, as instructed by Ms. Patterson;
2. Counsel was informed by Ms. Patterson that her minister from Easley Bible Methodist Church wished to attend the hearing and was not present. A letter from this minister is attached hereto,
3. Counsel also attaches supplemental letters from her sister and family friend in further support of mitigation, which are attached hereto; and
4. Defense counsel did not have the opportunity to counter arguments made by opposing counsel during the plea. After the recitation of the facts as set forth by the Solicitor's Office, the Defendant summarily denied facts not material to the charge to which she pled. The Assistant Solicitor then countered the Defendant's statements with

damning information that was not particularly relevant. Counsel for the Defendant was not given an opportunity to respond.

Financial transaction card theft is the taking of a financial transaction card from the control of another without the cardholder's consent, and with the intent to use it. *See SC 16-14-60(A)(3)*. The facts to which the Defendant pled and which substantiated the guilty plea are that the Defendant removed the card from the victim's vehicle and carried it away. The aforementioned statement (which counsel paraphrased) is the only factual basis for the plea. The Assistant Solicitor cited a struggle after the criminal act, which the Defendant denied. This is where the Assistant Solicitor was able to state her position on the record, and the Defendant was not able to respond.

The Defendant's response is: Defendant adamantly denies that her actions directly resulted in a struggle between herself and the victim at the time of the crime.

If a struggle ensued – which the Defendant cannot concede and should not have to concede – it was after the taking and carrying away of the credit card had occurred. In other words, the crime for financial transaction card theft was complete, and Defendant was trying to leave. Any action thereafter was on the part of the victim – whether warranted or not. It should also be noted that the Defendant was not charged with strong armed robbery, robbery, and/or assault and battery of any degree towards the victim as a result of this incident. The Defendant has no indication that the victim was physically harmed in this process. Defendant, however, should not be placed in the position to respond to these arguments in the first place.

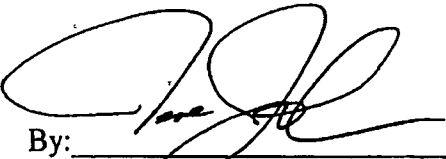
The difference in the parties' opinions concerning an alleged struggle was objectionable and likely should not have been put on the record, as this issue was not

properly before the Court. Defendant only plead to financial transaction card theft. Any facts submitted about the action that resulted after this crime and did not involve this crime were not relevant to this plea to this charge. Defendant had a right to a jury trial and she waived that right. Had she known these facts were going to be construed against her this way, she may have elected to exercise her right to a jury trial. Defendant accepted responsibility for the taking of the credit card, as demonstrated by her entry of the guilty plea to the charge at hand. Nevertheless, she was likely prejudiced by not having a chance to respond to immaterial and irrelevant arguments made by opposing counsel.

WHEREFORE, for the above-stated reasons as well as any other reasons which may appear to this Court, Ms. Patterson, prays that this Court grant her motion and order:

1. That the active part of the sentence be served on the Home Incarceration Program.

Respectfully submitted,

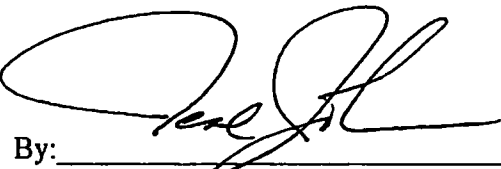
By: 
 Teal Johnson, Assistant Public Defender
 Attorney for Defendant
 214 E. Main Street, Suite B240
 Pickens, South Carolina 29671
 (864) 898-5577

FILE COPY

Handled

Date: December 12, 2012

A copy of this Motion was served upon Assistant Solicitor Jenny Barwick on December 4, 2012.

By: 
 Teal Johnson, Assistant Public Defender

WITNESSES

D E Patterson

Easley Police Department

3/14/2012

ARREST WARRANT NUMBER

M079454

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-39- ^{JLB} 2443

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

TERM 2012

THE STATE

vs.

WANDA EDENS PATTERSON

Indictment for

0348

FINANCIAL TRANSACTION CARD THEFT

VIOLATION § 16-14-0020, 0100(

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
FINANCIAL TRANSACTION CARD THEFT

At a Court of General Sessions, convened on

the Grand Jurors of Pickens

County present upon their oath:

That WANDA EDENS PATTERSON did in Pickens County on or about the 11th day of March, 2012, willfully and maliciously take, obtain, withhold or otherwise receive a Peoples National Bank debit card, with the account number ending in 3091, belonging to DOROTHY LOFTIS, with intent to use, sell or otherwise transfer the card. This is in violation of §16-14-0020 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 4, 2013


Benjamin John Tripp
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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NOV 04 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Pickens County
G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

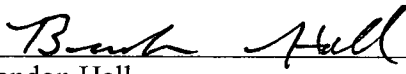
WANDA E. PATTERSON,

APPELLANT

APPELLATE CASE NO. 2013-000062

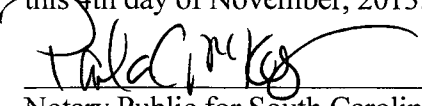
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 4th day of November, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of November, 2013.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022

RECEIVED

NOV 04 2013

SC Court of Appeals