

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County  
Edward W. Miller, Circuit Court Judge

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**RECEIVED**  
NOV 01 2016  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TARRAN M. EDWARDS,

APPELLANT,

APPELLANT CASE NO.2016-000333

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INITIAL BRIEF OF APPELLANT

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Tarran M. Edwards  
SCDC No. 323814  
M.C.C.I. F3-B-210  
386 Redemption Way  
McCormick, S.C. 29899  
Pro'Se

## STATEMENT OF CASE

A Greenville County grand jury indicted Appellant for homicide by Child Abuse in violation of section (16-3-85)(A)(1) of the S.C. Code R. 243-244. Specifically, the indictment alleged that Appellate did in Greenville Co. on or about the 17th or 18th day of November 2013 cause the death of a child (Minor) under the age of eleven while child abuse or neglect, and the death occurred under circumstances manifesting an extreme indifference to human life. The State alleged Appellant had violated section 16-3-85 (A)(1).

On February 8-9 2016 a jury trial was held before the Honorable Edward W. Miller. The jury found Appellant guilty of homicide by child abuse R. 235, 11.8-12. Judge Miller sentenced Appellant to thirty years R. 240, 11.18-20 R.245 Appellant filed Notice of Appeal.

## ARGUMENT

Did trial attorney error in failing to object when Judge Miller in his jury instructions, informed the Jury that the State may also prove homicide by child neglect by proving beyond a reasonable doubt that defendant knowingly aided and abetted another person to commit child abuse or neglect. Appellant was indicted for homicide by child abuse under Code Ann;(16-3-85)(A)(1). A trial Judge may charge the jury on a lesser included offense, if there is evidence from which it could be inferred the lesser rather than the greater offense was committed. Section (A)(2) however is not a lesser included offense of Section (A)(1) where, as here the general assembly provides separate offense in the same statutory scheme, only the indicted offense should be submitted to the jury State v. Smith 406 S.C. 215, 219, 750 S.E. 2d. 612, 614 (2013). Appellant also relies on Bailey v. State 392 S.C. 422,431, 709 S.E.2d. 671, 676 (2011). Appellant was charged as the principle to Section (A)(1). The Court went on to explain that because the Section (A)(2) offense is not a lesser included offense of Section (A)(1). An indictment expressly charging only Section (A)(1) offense does not provide notice of a Section (A)(2) charge. The Court explained that charging the jury with the unindicted Section (A)(2) offense was error, and constituted a material variance from the indicted crime.

Appellant also argues his attorney failed to make any objections through most of the trial, but most of all she never made any objections or exceptions to the Judge's charges to the jury. See page 235 Line 20-25. Appellant believe he has shown a Sixth Amendment claim of ineffective assistance; Appellant's attorney failed to call character witness, attorney failed to present meaningful arguments to the sentencing Judge.

In a long line of cases that include Powell v. Alabama 287 U.S. 45, 53 S.Ct, 55, 77 L.Ed. 158 (1932). Gideon v. Wainwright 372 U.S. 335, 835. Ct. 792, 9 LEd, 2d. 799 (1963). The Constitution guarantees a fair trial through the due process clauses, but it defines the basic elements of a fair trial largely through the several provisions of the Sixth Amendment including the Counsel Clause;

In all criminal prosecutions the accused shall enjoy the right to a speedy trial, by an impartial jury, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Appellant argues attorney didn't call his witnesses; she didn't allow him to take the stand, and she didn't object to the jury instructions. Appellant has shown that attorney's deficient performance prejudiced the outcome of the trial, and the sentencing process.

The Appellant argues that this is shocking to the universal sense of justice and extraordinary circumstances in it's setting. See: Gibson v. State 495 S.E. 2d. 426. See also Keeller v. Mauney 500 S.E. 2d. 123 and also Simpson v. State 495, S.E. 2d. 429.

CONCLUSION

For the foregoing reasons, I strongly contend that I have clearly shown actual prejudice resulting from Const. violations contained there in, which are extraordinary circumstances that has been beyond my control, and a fundamental denial of fairness that is also shocking to the universal sense of justice, that requires a ruling upon the merit(s) and issue(s) in this proceeding along with any other relief to which I may be entitled to.

October 28, \_\_\_\_\_, 2016.

/s/ Tarran Edwards

Tarran M. Edwards  
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Appellate Case No. 2016-000333

CERTIFICATE OF SERVICE

*Affidavit*

The undersigned petitioner hereby certifies that a true correct copy of the enclosed Initial Brief of Appellant to the respondent, along with Certificate of Service has on this 27 day of October 2016 been served upon the respondents by United States Mail, postage prepaid, and addressed to the respondent as follows:

Paul B. Wickensimer  
Greenville County Clerk of Court  
305 EastNorth Street  
Greenville, S.C. 29601

Alan Wilson  
Att. General of South Carolina  
P.O. Box 11549  
Columbia S.C. 29211-1549

SWORN TO ME this 28 day  
of October, 2016.

 Michael Camare  
(L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 09 2024

TARRAN M. EDWARDS # 323814 F3-B-210  
386 Redemption way  
McCormick, S.C. 29894

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South Carolina Court of Appeals  
JENNY ABBOTT KITCHING, CLERK  
P.O. Box 11629  
Columbia, SC. 29211